













ONTARIO

# REVISED STATUTES OF ONTARIO, 1960

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL  
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED  
UNDER THE AUTHORITY OF THE STATUTES  
REVISION ACT, 1959

IN FIVE VOLUMES

**VOL. 3**

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# REVISED STATUTES OF ONTARIO, 1960

## VOLUME 3

### TABLE OF CONTENTS

CHAP.	PAGE
226 — Magistrates Act . . . . .	1
227 — Marine Insurance Act . . . . .	7
228 — Marriage Act . . . . .	37
229 — Married Women's Property Act . . . . .	59
230 — Master and Servant Act . . . . .	65
231 — Maternity Boarding Houses Act . . . . .	71
232 — Matrimonial Causes Act . . . . .	75
233 — Mechanics' Lien Act . . . . .	79
234 — Medical Act . . . . .	109
235 — Mental Health Act . . . . .	131
236 — Mental Hospitals Act . . . . .	135
237 — Mental Incompetency Act . . . . .	171
238 — Mercantile Law Amendment Act . . . . .	185
239 — Milk Industry Act . . . . .	193
240 — Minimum Wage Act . . . . .	227
241 — Mining Act . . . . .	231
242 — Mining Tax Act . . . . .	433
243 — Minors' Protection Act . . . . .	449
244 — Mortgage Brokers Registration Act . . . . .	451
245 — Mortgages Act . . . . .	459
246 — Mortmain and Charitable Uses Act . . . . .	475
247 — Mothers' and Dependent Children's Allowances Act . . . . .	483
248 — Motor Vehicle Fuel Tax Act . . . . .	489
249 — Municipal Act . . . . .	499
250 — Municipal Arbitrations Act . . . . .	829
251 — Municipal Corporations Quietening Orders Act . . . . .	835
252 — Municipal Drainage Act . . . . .	837
253 — Municipal Drainage Aid Act . . . . .	887
254 — Municipal Franchise Extension Act . . . . .	891
255 — Municipal Franchises Act . . . . .	895
256 — Municipal Health Services Act . . . . .	901
257 — Municipal Subsidies Adjustment Act . . . . .	907
258 — Municipal Tax Assistance Act . . . . .	909
259 — Municipal Unconditional Grants Act . . . . .	913
260 — Municipality of Metropolitan Toronto Act . . . . .	917
261 — Negligence Act . . . . .	1049
262 — Niagara Parks Act . . . . .	1053

CHAP.	PAGE
263 — Notaries Act .....	1061
264 — Nurses Registration Act .....	1063
265 — Nursing Act .....	1065
266 — Official Notices Publication Act .....	1069
267 — Old Age Assistance Act .....	1071
268 — Oleomargarine Act .....	1075
269 — One Day's Rest in Seven Act .....	1079
270 — Ontario Anti-Discrimination Commission Act .....	1081
271 — Ontario Energy Board Act .....	1083
272 — Ontario Food Terminal Act .....	1095
273 — Ontario Highway Transport Board Act .....	1099
274 — Ontario Municipal Board Act .....	1105
275 — Ontario Municipal Improvement Corporation Act .....	1133
276 — Ontario Northland Transportation Commission Act .....	1139
277 — Ontario Parks Integration Board Act .....	1151
278 — Ontario School Trustees' Council Act .....	1153
279 — Ontario-St. Lawrence Development Commission Act .....	1157
280 — Ontario Telephone Development Corporation Act .....	1165
281 — Ontario Water Resources Commission Act .....	1173
282 — Operating Engineers Act .....	1199
283 — Optometry Act .....	1215
284 — Parents' Maintenance Act .....	1221
285 — Parks Assistance Act .....	1225
286 — Parole Act .....	1229
287 — Partition Act .....	1233
288 — Partnerships Act .....	1237
289 — Partnerships Registration Act .....	1249
290 — Pawnbrokers Act .....	1255
291 — Penal and Reform Institutions Inspection Act .....	1265
292 — Personation Act .....	1269
293 — Pesticides Act .....	1273
294 — Petty Trespass Act .....	1277
295 — Pharmacy Act .....	1279
296 — Planning Act .....	1301
297 — Plant Diseases Act .....	1333
298 — Police Act .....	1337
299 — Pounds Act .....	1359
300 — Power Commission Act .....	1365
301 — Power Commission Insurance Act .....	1433
302 — Power Control Act .....	1435
303 — Powers of Attorney Act .....	1439
304 — Prepaid Hospital and Medical Services Act .....	1441
305 — Private Hospitals Act .....	1447
306 — Private Investigators Act .....	1455
307 — Private Sanitaria Act .....	1459



# ALPHABETICAL TABLE OF STATUTES

## CONTAINED IN VOLUMES 1 TO 4 OF

### REVISED STATUTES OF ONTARIO, 1960

---

#### VOLUME 1

CHAP.

- 1 — Absconding Debtors Act
- 2 — Absentees Act
- 3 — Accidental Fires Act
- 4 — Accumulations Act
- 5 — Administration of Justice Expenses Act
- 6 — Agricultural Associations Act
- 7 — Agricultural Committees Act
- 8 — Agricultural Development Act
- 9 — Agricultural Development Finance Act
- 10 — Agricultural Representatives Act
- 11 — Agricultural Societies Act
- 12 — Air Pollution Control Act
- 13 — Aliens' Real Property Act
- 14 — Anatomy Act
- 15 — Andrew Mercer Reformatory Act
- 16 — Apportionment Act
- 17 — Apprenticeship Act
- 18 — Arbitrations Act
- 19 — Archaeological and Historic Sites Protection Act
- 20 — Architects Act
- 21 — Archives Act
- 22 — Artificial Insemination Act
- 23 — Assessment Act
- 24 — Assignment of Book Debts Act
- 25 — Assignments and Preferences Act
- 26 — Athletics Control Act
- 27 — Audit Act
  
- 28 — Bail Act
- 29 — Bailiffs Act
- 30 — Barristers Act
- 31 — Beach Protection Act
- 32 — Beds of Navigable Waters Act
- 33 — Bees Act
- 34 — Bills of Sale and Chattel Mortgages Act

VOLUME 1—*Continued*

## CHAP.

- 35 — Blind Persons' Allowances Act
- 36 — Blind Workmen's Compensation Act
- 37 — Boilers and Pressure Vessels Act
- 38 — Boundaries Act
- 39 — Bread Sales Act
- 40 — Bridges Act
- 41 — Brucellosis Act
- 42 — Building Trades Protection Act
- 43 — Bulk Sales Act
- 44 — Business Records Protection Act
  
- 45 — Cancer Act
- 46 — Cancer Remedies Act
- 47 — Cemeteries Act
- 48 — Certification of Titles Act
- 49 — Change of Name Act
- 50 — Charitable Gifts Act
- 51 — Charitable Institutions Act
- 52 — Charities Accounting Act
- 53 — Child Welfare Act
- 54 — Children's Boarding Homes Act
- 55 — Children's Maintenance Act
- 56 — Children's Mental Hospitals Act
- 57 — Chiropody Act
- 58 — Collection Agencies Act
- 59 — Commissioners for taking Affidavits Act
- 60 — Community Centres Act
- 61 — Conditional Sales Act
- 62 — Conservation Authorities Act
- 63 — Consolidated Cheese Factories Act
- 64 — Constitutional Questions Act
- 65 — Controverted Elections Act
- 66 — Conveyancing and Law of Property Act
- 67 — Co-operative Loans Act
- 68 — Cornea Transplant Act
- 69 — Coroners Act
- 70 — Corporation Securities Registration Act
- 71 — Corporations Act
- 72 — Corporations Information Act
- 73 — Corporations Tax Act
- 74 — Costs of Distress Act
- 75 — County Court Judges' Criminal Courts Act



VOLUME 1—*Continued*

CHAP.

- 76 — County Courts Act
- 77 — County Judges Act
- 78 — Creditors' Relief Act
- 79 — Credit Unions Act
- 80 — Crown Administration of Estates Act
- 81 — Crown Agency Act
- 82 — Crown Attorneys Act
- 83 — Crown Timber Act
- 84 — Crown Witnesses Act
- 85 — Custody of Documents Act
  
- 86 — Damage by Fumes Arbitration Act
- 87 — Day Nurseries Act
- 88 — Dead Animal Disposal Act
- 89 — Debt Collectors Act
- 90 — Dental Technicians Act
- 91 — Dentistry Act
- 92 — Department of Agriculture Act
- 93 — Department of Economics Act
- 94 — Department of Education Act
- 95 — Department of Energy Resources Act
- 96 — Department of Highways Act
- 97 — Department of Labour Act
- 98 — Department of Municipal Affairs Act
- 99 — Department of Planning and Development Act
- 100 — Department of Public Welfare Act
- 101 — Department of Reform Institutions Act
- 102 — Department of Transport Act
- 103 — Department of Travel and Publicity Act
- 104 — Dependants' Relief Act
- 105 — Deserted Wives' and Children's Maintenance Act
- 106 — Devolution of Estates Act
- 107 — Disabled Persons' Allowances Act
- 108 — Disorderly Houses Act
- 109 — Ditches and Watercourses Act
- 110 — Division Courts Act
- 111 — Dog Tax and Cattle, Sheep and Poultry Protection Act
- 112 — Dominion Courts Act
- 113 — Dower Act
- 114 — Drugless Practitioners Act

VOLUME 1—*Continued*

## CHAP.

- 115 — Edible Oil Products Act
- 116 — Egress from Public Buildings Act
- 117 — Elderly Persons' Housing Aid Act
- 118 — Election Act
- 119 — Elevators and Lifts Act
- 120 — Embalmers and Funeral Directors Act
- 121 — Employment Agencies Act
- 122 — Energy Act
- 123 — Escheats Act
- 124 — Estreats Act
- 125 — Evidence Act
- 126 — Execution Act
- 127 — Executive Council Act
- 128 — Extra-Judicial Services Act

## VOLUME 2

- 129 — Factors Act
- 130 — Factory, Shop and Office Building Act
- 131 — Fair Accommodation Practices Act
- 132 — Fair Employment Practices Act
- 133 — Farm Loans Act
- 134 — Farm Loans Adjustment Act
- 135 — Farm Products Containers Act
- 136 — Farm Products Grades and Sales Act
- 137 — Farm Products Marketing Act
- 138 — Fatal Accidents Act
- 139 — Female Employees Fair Remuneration Act
- 140 — Female Refugees Act
- 141 — Ferries Act
- 142 — Financial Administration Act
- 143 — Fines and Forfeitures Act
- 144 — Fire Accidents Act
- 145 — Fire Departments Act
- 146 — Fire Fighters' Exemption Act
- 147 — Fire Guardians Act
- 148 — Fire Marshals Act
- 149 — Fires Extinguishment Act
- 150 — Fish Inspection Act
- 151 — Floral Emblem Act
- 152 — Forest Fires Prevention Act

VOLUME 2—*Continued*

CHAP.

- 153 — Forestry Act
- 154 — Fraudulent Conveyances Act
- 155 — Fraudulent Debtors Arrest Act
- 156 — Fruit Packing Act
- 157 — Frustrated Contracts Act
  
- 158 — Game and Fisheries Act
- 159 — Gaming Act
- 160 — Gas and Oil Leases Act
- 161 — Gasoline Handling Act
- 162 — Gasoline Tax Act
- 163 — General Sessions Act
- 164 — General Welfare Assistance Act
- 165 — Gold Clauses Act
- 166 — Government Contracts Hours and Wages Act
- 167 — Grain Elevator Storage Act
- 168 — Guarantee Companies Securities Act
  
- 169 — Habeas Corpus Act
- 170 — Haliburton Act
- 171 — Highway Improvement Act
- 172 — Highway Traffic Act
- 173 — Homemakers and Nurses Services Act
- 174 — Homes for the Aged Act
- 175 — Horticultural Societies Act
- 176 — Hospital Services Commission Act
- 177 — Hospitals and Charitable Institutions Inquiries Act
- 178 — Hospitals Tax Act
- 179 — Hotel Fire Safety Act
- 180 — Hotel Registration of Guests Act
- 181 — Hours of Work and Vacations with Pay Act
- 182 — Housing Development Act
  
- 183 — Indian Welfare Services Act
- 184 — Industrial and Mining Lands Compensation Act
- 185 — Industrial Farms Act
- 186 — Industrial Standards Act
- 187 — Infants Act
- 188 — Injured Animals Act
- 189 — Innkeepers Act
- 190 — Insurance Act

VOLUME 2—*Continued*

## CHAP.

- 191 — Interpretation Act
- 192 — Interprovincial Drainage Act
- 193 — Investigation of Titles Act
- 194 — Investment Contracts Act
  
- 195 — Jails Act
- 196 — Judges' Orders Enforcement Act
- 197 — Judicature Act
- 198 — Junior Farmer Establishment Act
- 199 — Jurors Act
- 200 — Justices of the Peace Act
- 201 — Juvenile and Family Courts Act
  
- 202 — Labour Relations Act
- 203 — Lakes and Rivers Improvement Act
- 204 — Land Titles Act
- 205 — Land Transfer Tax Act
- 206 — Landlord and Tenant Act
- 207 — Law Society Act
- 208 — Legislative Assembly Act
- 209 — Legislative Assembly Retirement Allowances Act
- 210 — Legitimation Act
- 211 — Libel and Slander Act
- 212 — Lieutenant Governor Act
- 213 — Lightning Rods Act
- 214 — Limitations Act
- 215 — Limited Partnerships Act
- 216 — Line Fences Act
- 217 — Liquor Control Act
- 218 — Liquor Licence Act
- 219 — Live Stock and Live Stock Products Act
- 220 — Live Stock Branding Act
- 221 — Live Stock Community Sales Act
- 222 — Loan and Trust Corporations Act
- 223 — Local Improvement Act
- 224 — Logging Tax Act
- 225 — Lord's Day (Ontario) Act



## VOLUME 3

## CHAP.

- 226 — Magistrates Act
- 227 — Marine Insurance Act
- 228 — Marriage Act
- 229 — Married Women's Property Act
- 230 — Master and Servant Act
- 231 — Maternity Boarding Houses Act
- 232 — Matrimonial Causes Act
- 233 — Mechanics' Lien Act
- 234 — Medical Act
- 235 — Mental Health Act
- 236 — Mental Hospitals Act
- 237 — Mental Incompetency Act
- 238 — Mercantile Law Amendment Act
- 239 — Milk Industry Act
- 240 — Minimum Wage Act
- 241 — Mining Act
- 242 — Mining Tax Act
- 243 — Minors' Protection Act
- 244 — Mortgage Brokers Registration Act
- 245 — Mortgages Act
- 246 — Mortmain and Charitable Uses Act
- 247 — Mothers' and Dependent Children's Allowances Act
- 248 — Motor Vehicle Fuel Tax Act
- 249 — Municipal Act
- 250 — Municipal Arbitrations Act
- 251 — Municipal Corporations Quieting Orders Act
- 252 — Municipal Drainage Act
- 253 — Municipal Drainage Aid Act
- 254 — Municipal Franchise Extension Act
- 255 — Municipal Franchises Act
- 256 — Municipal Health Services Act
- 257 — Municipal Subsidies Adjustment Act
- 258 — Municipal Tax Assistance Act
- 259 — Municipal Unconditional Grants Act
- 260 — Municipality of Metropolitan Toronto Act
  
- 261 — Negligence Act
- 262 — Niagara Parks Act
- 263 — Notaries Act
- 264 — Nurses Registration Act
- 265 — Nursing Act

VOLUME 3—*Continued*

## CHAP.

- 266 — Official Notices Publication Act  
 267 — Old Age Assistance Act  
 268 — Oleomargarine Act  
 269 — One Day's Rest in Seven Act  
 270 — Ontario Anti-Discrimination Commission Act  
 271 — Ontario Energy Board Act  
 272 — Ontario Food Terminal Act  
 273 — Ontario Highway Transport Board Act  
 274 — Ontario Municipal Board Act  
 275 — Ontario Municipal Improvement Corporation Act  
 276 — Ontario Northland Transportation Commission Act  
 277 — Ontario Parks Integration Board Act  
 278 — Ontario School Trustees' Council Act  
 279 — Ontario-St. Lawrence Development Commission Act  
 280 — Ontario Telephone Development Corporation Act  
 281 — Ontario Water Resources Commission Act  
 282 — Operating Engineers Act  
 283 — Optometry Act  
  
 284 — Parents' Maintenance Act  
 285 — Parks Assistance Act  
 286 — Parole Act  
 287 — Partition Act  
 288 — Partnerships Act  
 289 — Partnerships Registration Act  
 290 — Pawnbrokers Act  
 291 — Penal and Reform Institutions Inspection Act  
 292 — Personation Act  
 293 — Pesticides Act  
 294 — Petty Trespass Act  
 295 — Pharmacy Act  
 296 — Planning Act  
 297 — Plant Diseases Act  
 298 — Police Act  
 299 — Pounds Act  
 300 — Power Commission Act  
 301 — Power Commission Insurance Act  
 302 — Power Control Act  
 303 — Powers of Attorney Act  
 304 — Prepaid Hospital and Medical Services Act  
 305 — Private Hospitals Act  
 306 — Private Investigators Act  
 307 — Private Sanitaria Act

## VOLUME 4

## CHAP.

- 308 — Probation Act  
 309 — Professional Engineers Act  
 310 — Property and Civil Rights Act  
 311 — Provincial Aid to Drainage Act  
 312 — Provincial Auctioneers Act  
 313 — Provincial Land Tax Act  
 314 — Provincial Parks Act  
 315 — Psychiatric Hospitals Act  
 316 — Psychologists Registration Act  
 317 — Public Accountancy Act  
 318 — Public Authorities Protection Act  
 319 — Public Commercial Vehicles Act  
 320 — Public Halls Act  
 321 — Public Health Act  
 322 — Public Hospitals Act  
 323 — Public Inquiries Act  
 324 — Public Lands Act  
 325 — Public Libraries Act  
 326 — Public Officers Act  
 327 — Public Officers' Fees Act  
 328 — Public and Other Works Wages Act  
 329 — Public Parks Act  
 330 — Public Schools Act  
 331 — Public Service Act  
 332 — Public Service Superannuation Act  
 333 — Public Service Works on Highways Act  
 334 — Public Trustee Act  
 335 — Public Utilities Act  
 336 — Public Utilities Corporations Act  
 337 — Public Vehicles Act  
 338 — Public Works Act  
 339 — Public Works Protection Act  
 340 — Quieting Titles Act  
 341 — Race Tracks Tax Act  
 342 — Racing Commission Act  
 343 — Railway Fire Charge Act  
 344 — Real Estate and Business Brokers Act  
 345 — Reciprocal Enforcement of Judgments Act  
 346 — Reciprocal Enforcement of Maintenance Orders Act  
 347 — Reformatories Act  
 348 — Registry Act  
 349 — Regulations Act  
 350 — Rehabilitation Services Act  
 351 — Religious Institutions Act

VOLUME 4—*Continued*

## CHAP.

- 352 — Replevin Act
- 353 — Representation Act
- 354 — Rights of Labour Act
- 355 — Rural Housing Assistance Act
- 356 — Rural Hydro-Electric Distribution Act
- 357 — Rural Power District Loans Act
  
- 358 — Sale of Goods Act
- 359 — Sanatoria for Consumptives Act
- 360 — School Trust Conveyances Act
- 361 — Schools Administration Act
- 362 — Secondary Schools and Boards of Education Act
- 363 — Securities Act
- 364 — Security Transfer Tax Act
- 365 — Seduction Act
- 366 — Seed Grain Subsidy Act
- 367 — Seed Potatoes Act
- 368 — Separate Schools Act
- 369 — Settled Estates Act
- 370 — Settlers' Pulpwood Protection Act
- 371 — Sheriffs Act
- 372 — Short Forms of Conveyances Act
- 373 — Short Forms of Leases Act
- 374 — Short Forms of Mortgages Act
- 375 — Silicosis Act
- 376 — Snow Roads and Fences Act
- 377 — Soldiers' Aid Commission Act
- 378 — Solicitors Act
- 379 — Spruce Pulpwood Exportation Act
- 380 — Stallions Act
- 381 — Statute of Frauds
- 382 — Statute Labour Act
- 383 — Statutes Act
- 384 — Steam Threshing Engines Act
- 385 — Stock Yards Act
- 386 — Succession Duty Act
- 387 — Summary Convictions Act
- 388 — Surrogate Courts Act
- 389 — Surveyors Act
- 390 — Surveys Act
- 391 — Survivorship Act
  
- 392 — Teachers' Superannuation Act
- 393 — Teaching Profession Act
- 394 — Telephone Act
- 395 — Territorial Division Act
- 396 — Theatres Act



VOLUME 4—*Continued*

## CHAP.

- 397 — Threshing Machines Act
- 398 — Ticket Speculation Act
- 399 — Tile Drainage Act
- 400 — Time Act
- 401 — Toll Bridges Act
- 402 — Tourist Establishments Act
- 403 — Trade Schools Regulation Act
- 404 — Training Schools Act
- 405 — Transportation of Fowl Act
- 406 — Trees Act
- 407 — Trench Excavators' Protection Act
- 408 — Trustee Act
  
- 409 — Unclaimed Articles Act
- 410 — Unconscionable Transactions Relief Act
  
- 411 — Vacant Land Cultivation Act
- 412 — Vaccination Act
- 413 — Variation of Trusts Act
- 414 — Vendors and Purchasers Act
- 415 — Venereal Diseases Prevention Act
- 416 — Veterinarians Act
- 417 — Vexatious Proceedings Act
- 418 — Vicious Dogs Act
- 419 — Vital Statistics Act
- 420 — Voters' Lists Act
  
- 421 — Wages Act
- 422 — Warble Fly Control Act
- 423 — Warehousemen's Lien Act
- 424 — Warehouse Receipts Act
- 425 — War Veterans Burial Act
- 426 — Water Powers Regulation Act
- 427 — Weed Control Act
- 428 — Welfare Units Act
- 429 — Wharfs and Harbours Act
- 430 — White Cane Act
- 431 — Wild Rice Harvesting Act
- 432 — Wilderness Areas Act
- 433 — Wills Act
- 434 — Wolf and Bear Bounty Act
- 435 — Woodmen's Employment Act
- 436 — Woodmen's Lien for Wages Act
- 437 — Workmen's Compensation Act
- 438 — Workmen's Compensation Insurance Act



## CHAPTER 226

## The Magistrates Act

## 1. In this Act,

Interpre-  
tation

(a) "Inspector" means the Inspector of Legal Offices;

(b) "magistrate" includes a deputy magistrate. 1952,  
c. 53, s. 1; 1959, c. 56, s. 1.2.—(1) The Lieutenant Governor in Council may appoint magistrates. 1952, c. 53, s. 2. Appoint-  
ment(2) A magistrate may be specially authorized by the terms of his appointment to exercise the jurisdiction conferred upon a magistrate by Part XVI of the *Criminal Code* (Canada). 1953-54, c. 51 (Can.)  
1955, c. 41, s. 1. Special  
authoriza-  
tion3.—(1) Except as provided in subsection 2, magistrates shall hold office during pleasure. Tenure of  
office(2) A magistrate who has held office for two years may be removed from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if, Idem

(a) the circumstances respecting the misbehaviour or inability are first inquired into; and

(b) the magistrate is given reasonable notice of the time and place appointed for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

(3) The Lieutenant Governor in Council, for the purpose of making an inquiry under subsection 2, may appoint one or more judges of the Supreme Court to make such inquiry and to report thereon, and a judge so appointed has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. Appoint-  
ment of  
judge to  
inquire  
  
R.S.O. 1960,  
c. 323(4) Where a magistrate is removed from office under this section, the order effecting the removal and all reports, evidence and correspondence relating thereto shall be laid before the Assembly by the Attorney General within the first fifteen days of the next ensuing session. 1952, c. 53, s. 3 (1-4). Order to  
be laid  
before  
Assembly

Application  
of subss.  
2-4

(5) Subsections 2, 3 and 4 apply only to magistrates who receive an annual salary under this Act. 1957, c. 66, s. 2.

Retire-  
ment

4.—(1) Except as provided in subsection 2, magistrates cease to hold office upon attaining the age of seventy years.

Idem

(2) Magistrates holding office on the 1st day of July, 1941, cease to hold office upon attaining the age of seventy-five years.

Idem

R.S.O. 1960,  
cc. 332, 331

(3) Notwithstanding anything in this Act or in section 24 of *The Public Service Superannuation Act*, either the provisions of this Act or of *The Public Service Act* as to retirement age, as he may elect, apply to any magistrate appointed before the 1st day of May, 1952.

Idem

(4) Notwithstanding anything in this Act or in section 24 of *The Public Service Superannuation Act*, the provisions of *The Public Service Act* as to retirement age apply to magistrates appointed on or after the 1st day of May, 1952. 1952, c. 53, s. 4.

Re-appoint-  
ment of  
retired  
magistrates

5. A person who has ceased to hold office as a magistrate by reason of having attained retirement age may be re-appointed as a magistrate to hold office during pleasure at a salary not greater than that received immediately before retirement, but in any event he ceases to hold office upon attaining the age of seventy-five years. 1952, c. 53, s. 5.

Oaths to  
be taken

6.—(1) A magistrate before acting shall take the following oath of office:

I, A.B., of the ..... of .....  
in the County (or District) of ..... do swear  
that I will well and truly serve our Sovereign Lady Queen  
Elizabeth (or the reigning Sovereign for the time being) in the  
office of magistrate (or deputy magistrate, as the case may be),  
and I will do right to all manner of people according to law,  
without fear or favour, affection or ill will. So help me God.  
A.B.

Sworn before me, etc.

R.S.O. 1960,  
c. 326

and also the oath of allegiance as required by *The Public Officers Act*.

Filing of  
oaths

(2) The oath of office and the oath of allegiance shall be transmitted forthwith to the Inspector and shall be filed in his office. 1952, c. 53, s. 6.

Jurisdiction

7. Every magistrate is a magistrate in and for the Province of Ontario. 1954, c. 48, s. 1.

Magistrates  
are justices

8. A magistrate is *ex officio* a justice of the peace. 1952, c. 53, s. 8.



**9.** A magistrate sitting as such or as a justice of the peace has power to do alone whatever is authorized to be done by two or more justices of the peace. 1952, c. 53, s. 9. Magistrates have powers of two justices

**10.—(1)** A magistrate shall not act as agent, solicitor or counsel in any proceeding before a magistrate or a justice of the peace, and no partner or clerk of a magistrate shall act as agent, solicitor or counsel in any proceeding before him. Prohibition as to practising in magistrates' courts

**(2)** Unless authorized by the Lieutenant Governor in Council, a magistrate shall not practice any profession or actively engage in any business, trade or occupation but shall devote his whole time to the performance of his duties as magistrate. 1952, c. 53, s. 11. Prohibition as to engaging in other occupations

**11.** Every judge and deputy judge of a juvenile and family court is *ex officio* a magistrate in and for the area served by his court. 1954, c. 48, s. 2. Juvenile and family court judges, magistrates

**12.—(1)** A magistrate shall be paid the salary fixed by the Lieutenant Governor in Council. Salaries, amounts

**(2)** The salaries and travelling expenses of magistrates are payable out of such sums as are appropriated therefor by the Legislature. 1952, c. 53, s. 13. how payable

**13.** A magistrate may use any court room or municipal hall, but not so as to interfere with its ordinary use. 1952, c. 53, s. 14. Use of court room

**14.** The court rooms, offices, furniture, equipment, supplies and stationery for magistrates shall be such as the Inspector thinks appropriate. 1952, c. 53, s. 15. Office supplies, etc.

**15.** The Inspector may authorize a magistrate to employ clerical assistance and may fix the salary. 1952, c. 53, s. 16. Clerical assistance

**16.** The accounts relating to the salaries and expenses of magistrates shall be audited under *The Administration of Justice Expenses Act*. 1952, c. 53, s. 17. Accounts to be audited R.S.O. 1960, c. 5

**17.—(1)** Except in the case of a magistrate assigned to a city, every magistrate shall pay over the fees earned by him to the Treasurer of Ontario. Disposal of fees

**(2)** Every magistrate assigned to a city shall pay over the fees earned by him to the treasurer of the city. 1952, c. 53, s. 18. Idem

Deduction  
for  
expenses

**18.**—(1) Except in the case of a magistrate assigned to a city, every magistrate, from the total amount of the moneys coming into his hands that would otherwise accrue to the treasurer of a municipality, shall deduct and pay such clerical, stationery, rent and other expenses of his court and office as are approved by the Inspector, and shall pay two-fifths of the balance of such moneys to the Treasurer of Ontario. 1952, c. 53, s. 19.

Idem

(2) Where the total amount of the moneys coming into the hands of a magistrate that would except for subsection 1 accrue to the treasurer of a municipality is insufficient to pay such clerical, stationery, rent and other expenses of his court and office as are approved by the Inspector, the amount of the deficiency shall be made up from any moneys in his hands that would otherwise be payable to the Treasurer of Ontario. 1954, c. 48, s. 3.

City  
magistrates

**19.**—(1) The Attorney General may assign one or more magistrates to a city.

Senior  
magistrate,  
Toronto

(2) The Attorney General may designate one of the magistrates assigned to the City of Toronto as senior magistrate for that City.

Reimburse-  
ment of  
Province

(3) Where a magistrate is assigned to a city, an amount equal to the amount of his salary, cost-of-living bonus, if any, superannuation credits, if any, and any other allowance that is paid in the first instance by the Province shall be paid quarterly by the city to the Treasurer of Ontario, and if the assignment is for part time only the amount to be paid under this subsection shall be fixed by the Lieutenant Governor in Council.

Accommoda-  
tion, etc.

(4) Where a magistrate is assigned to a city, the city shall provide such court room, office, furniture, equipment, supplies, stationery, interpreters and clerical assistance for the magistrate as the Inspector thinks appropriate.

Super-  
annuation

R.S.O. 1960,  
c. 332

(5) Where a magistrate who is assigned to a city and who is not entitled to a superannuation allowance under *The Public Service Superannuation Act* attains retirement age and is retired, the city may provide for the payment to him during his lifetime of an annual sum by way of superannuation allowance. 1952, c. 53, s. 20.

Regulations

**20.**—(1) The Lieutenant Governor in Council may make regulations,

(a) fixing the period and manner in which the moneys coming into their hands are to be paid over by magistrates;

- (b) specifying the returns to be made by magistrates; 1952, c. 53, s. 21 (1), cls. (a, b).
- (c) providing for the safe-keeping, inspection and destruction of books, documents and papers of magistrates; 1958, c. 55, s. 1.
- (d) providing for the appointment and employment of stenographic reporters to take down evidence before magistrates, and fixing their salaries, fees, expenses and other forms of remuneration;
- (e) defining the classes of cases in which a stenographic reporter may be employed and the terms and conditions of their employment, and providing for the remuneration of stenographic reporters by the municipal corporation or by the parties to any proceeding before the magistrate as part of the costs in the case, or partly by the one method and partly by the other, and where the remuneration is made payable by the municipal corporation, providing for the allowance of a charge for stenographic reporting as part of the costs in any case in which a stenographic report of the proceedings has been taken;
- (f) prescribing the duties of the senior magistrate for the City of Toronto;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 53, s. 21 (1), cls. (d-g).

(2) Any such regulation may be general or particular in its application. 1952, c. 53, s. 21 (2).

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## CHAPTER 227

## The Marine Insurance Act

## INTERPRETATION

- 1.** In this Act, unless the context otherwise requires, Inter-  
pre-  
ta-  
tion
- (a) "action" includes a counterclaim and a set-off;
  - (b) "freight" includes the profit derivable by a ship-owner from the employment of his ship to carry his own goods or movables, as well as freight payable by a third party, but does not include passage-money;
  - (c) "movables" means any movable tangible property, other than the ship, and includes money, valuable securities and other documents;
  - (d) "policy" means a marine policy. R.S.O. 1950, c. 221, s. 1.

**2.** A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner Marine  
insurance  
defined and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure. R.S.O. 1950, c. 221, s. 2.

**3.—(1)** A contract of marine insurance may, by its express terms or by usage of trade, be extended so as to protect the Mixed sea  
and land  
risks assured against losses on inland waters or on any land risk that may be incidental to any sea voyage.

(2) Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Act, in so far as applicable, apply thereto; but, except as by this section provided, nothing in this Act alters or affects any rule of law applicable to any contract of insurance other than a contract of marine insurance as by this Act defined. R.S.O. 1950, c. 221, s. 3.

**4.—(1)** Subject to the provisions of this Act, every lawful marine adventure may be the subject of a contract of marine insurance. Marine  
adventures  
and mari-  
time perils  
defined

- (2) In particular there is a marine adventure where,
- (a) any ship, goods, or other movables are exposed to

maritime perils. Such property is in this Act referred to as “insurable property”;

- (b) the earning or acquisition of any freight, passage-money, commission, profit, or other pecuniary benefit, or the security for any advances, loan, or disbursements, is endangered by the exposure of insurable property to maritime perils;
- (c) any liability to a third party may be incurred by the owner of, or other person interested in or responsible for, insurable property by reason of maritime perils.

(3) “Maritime perils” means the perils consequent on or incidental to the navigation of the sea, that is to say, perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints, and detentions of princes and peoples, jettisons, barratry, and any other perils, either of the like kind or which may be designated by the policy. R.S.O. 1950, c. 221, s. 4.

#### INSURABLE INTEREST

Avoidance of  
wagering or  
gaming  
contracts

**5.**—(1) Every contract of marine insurance by way of gaming or wagering is void.

(2) A contract of marine insurance is deemed to be a gaming or wagering contract,

- (a) where the assured has not an insurable interest as defined by this Act, and the contract is entered into with no expectation of acquiring such an interest; or
- (b) where the policy is made “interest or no interest”, or “without further proof of interest than the policy itself”, or “without benefit of salvage to the insurer”, or subject to any other like term;

provided that where there is no possibility of salvage a policy may be effected without benefit of salvage to the insurer. R.S.O. 1950, c. 221, s. 5.

Insurable  
interest  
defined

**6.**—(1) Subject to the provisions of this Act, every person has an insurable interest who is interested in a marine adventure.

(2) In particular a person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss or by damage thereto or by the detention thereof, or may incur liability in respect thereof. R.S.O. 1950, c. 221, s. 6.

**7.—**(1) The assured must be interested in the subject-matter insured at the time of the loss though he need not be interested when the insurance is effected; provided that, where the subject-matter is insured "lost or not lost", the assured may recover although he may not have acquired his interest until after the loss, unless at the time of effecting the contract of insurance the assured was aware of the loss and the insurer was not. When interest must attach

(2) Where the assured has no interest at the time of the loss, he cannot acquire interest by any act or election after he is aware of the loss. R.S.O. 1950, c. 221, s. 7.

**8.—**(1) A defeasible interest and a contingent interest are insurable. Defeasible or contingent interests

(2) In particular, where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods, or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise. R.S.O. 1950, c. 221, s. 8.

**9.** A partial interest of any nature is insurable. R.S.O. 1950, c. 221, s. 9. Partial interest

**10.—**(1) The insurer under a contract of marine insurance has an insurable interest in his risk and may re-insure in respect of it. Re-insurance

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of such re-insurance. R.S.O. 1950, c. 221, s. 10.

**11.** The lender of money on bottomry or respondentia has an insurable interest in respect of the loan. R.S.O. 1950, c. 221, s. 11. Bottomry

**12.** The master or any member of the crew of a ship has an insurable interest in respect of his wages. R.S.O. 1950, c. 221, s. 12. Master's and seamen's wages

**13.** In the case of advance freight, the person advancing the freight has an insurable interest, in so far as such freight is not repayable in case of loss. R.S.O. 1950, c. 221, s. 13. Advance freight

**14.** The assured has an insurable interest in the charges of any insurance that he may effect. R.S.O. 1950, c. 221, s. 14. Charges of insurance

**15.—**(1) Where the subject-matter insured is mortgaged, the mortgagor has an insurable interest in the full value Quantum of interest



thereof, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage.

(2) A mortgagee, consignee, or other person having an interest in the subject-matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit.

(3) The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person may have agreed, or be liable, to indemnify him in case of loss. R.S.O. 1950, c. 221, s. 15.

Assignment  
of interest

**16.** Where the assured assigns or otherwise parts with his interest in the subject-matter insured, he does not thereby transfer to the assignee his rights under the contract of insurance, unless there is an express or implied agreement with the assignee to that effect; but the provisions of this section do not affect a transmission of interest by operation of law. R.S.O. 1950, c. 221, s. 16.

#### INSURABLE VALUE

Measure of  
insurable  
value

**17.** Subject to any express provision or valuation in the policy, the insurable value of the subject-matter insured must be ascertained as follows:

- (a) In insurance on ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit, provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursements, if any, incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole, and the insurable value, in the case of a steamship, includes also the machinery, boilers, and coals, oils, and engine stores if owned by the assured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade;
- (b) In insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the assured, plus the charges of insurance;
- (c) In insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole;
- (d) In insurance on any other subject-matter, the insurable value is the amount at the risk of the assured

when the policy attaches plus the charges of insurance. R.S.O. 1950, c. 221, s. 17.

#### DISCLOSURE AND REPRESENTATIONS

**18.** A contract of marine insurance is a contract based upon the utmost good faith, and if the utmost good faith be not observed by either party the contract may be avoided by the other party. R.S.O. 1950, c. 221, s. 18. Insurance is  
uberrimae  
fidei

**19.—(1)** Subject to the provisions of this section, the assured must disclose to the insurer before the contract is concluded every material circumstance that is known to the assured, and the assured is deemed to know every circumstance that in the ordinary course of business ought to be known by him and if the assured fails to make such disclosure the insurer may avoid the contract. Disclosure  
by assured

(2) Every circumstance is material that would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk.

(3) In the absence of inquiry the following circumstances need not be disclosed, namely,

- (a) any circumstance that diminishes the risk;
- (b) any circumstance that is known or presumed to be known to the insurer and the insurer is presumed to know matters of common notoriety or knowledge and matters that an insurer in the ordinary course of his business, as such, ought to know;
- (c) any circumstance as to which information is waived by the insurer;
- (d) any circumstance that it is superfluous to disclose by reason of any express or implied warranty.

(4) Whether any particular circumstance that is not disclosed be material or not is in each case a question of fact.

(5) The term "circumstance" includes any communication made to or information received by the assured. R.S.O. 1950, c. 221, s. 19.

**20.** Subject to the provisions of the preceding section as to circumstances that need not be disclosed, where an insurance is effected for the assured by an agent, the agent must disclose to the insurer, Disclosure  
by agent  
effecting  
insurance

- (a) every material circumstance that is known to himself, and an agent to insure is deemed to know every

circumstance that in the ordinary course of business ought to be known by or to have been communicated to him; and

- (b) every material circumstance that the assured is bound to disclose, unless it comes to his knowledge too late to communicate it to the agent. R.S.O. 1950, c. 221, s. 20.

Representations pending negotiation of contract

**21.**—(1) Every material representation made by the assured or his agent to the insurer during the negotiations for the contract, and before the contract is concluded, must be true and if it be untrue the insurer may avoid the contract.

(2) A representation is material that would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk.

(3) A representation may be either a representation as to a matter of fact or as to a matter of expectation or belief.

(4) A representation as to a matter of fact is true if it is substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

(5) A representation as to a matter of expectation or belief is true if it is made in good faith.

(6) A representation may be withdrawn or corrected before the contract is concluded.

(7) Whether a particular representation be material or not is in each case a question of fact. R.S.O. 1950, c. 221, s. 21.

When contract is deemed to be concluded

**22.** A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy is then issued or not; and for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract. R.S.O. 1950, c. 221, s. 22.

#### THE POLICY

Contract must be embodied in policy

**23.** A contract of marine insurance is inadmissible in evidence unless it is embodied in a marine policy in accordance with this Act and the policy may be executed and issued either at the time when the contract is concluded or afterwards. R.S.O. 1950, c. 221, s. 23.

What policy must specify

**24.** A marine policy must specify,

- (a) the name of the assured or of some person who effects the insurance on his behalf;



- (b) the subject-matter insured and the risk insured against;
- (c) the voyage or period of time, or both, as the case may be, covered by the insurance;
- (d) the sum or sums insured;
- (e) the name or names of the insurers. R.S.O. 1950, c. 221, s. 24.

**25.**—(1) A marine policy must be signed by or on behalf of the insurer, provided that in the case of a corporation the corporate seal may be sufficient, but nothing in this section shall be construed as requiring the subscription of a corporation to be under seal. Signature of insurer

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary is expressed, constitutes a distinct contract with the assured. R.S.O. 1950, c. 221, s. 25.

**26.** Where the contract is to insure the subject-matter at and from, or from one place to another or others, the policy is called a "voyage policy", and where the contract is to insure the subject-matter for a definite period of time the policy is called a "time policy" and a contract for both voyage and time may be included in the same policy. R.S.O. 1950, c. 221, s. 26. Voyage and time policies

**27.**—(1) The subject-matter insured must be designated in a marine policy with reasonable certainty. Designation of subject-matter

(2) The nature and extent of the interest of the assured in the subject-matter insured need not be specified in the policy.

(3) Where the policy designates the subject-matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject-matter insured. R.S.O. 1950, c. 221, s. 27.

**28.**—(1) A policy may be either valued or unvalued. Valued policy

(2) A valued policy is a policy that specifies the agreed value of the subject-matter insured.

(3) Subject to the provisions of this Act, and in the absence of fraud, the value fixed by the policy is, as between the insurer and assured, conclusive of the insurable value of the subject intended to be insured, whether the loss is total or partial.

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss. R.S.O. 1950, c. 221, s. 28.

Unvalued  
policy

**29.** An unvalued policy is a policy that does not specify the value of the subject-matter insured, but, subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained in the manner hereinbefore specified. R.S.O. 1950, c. 221, s. 29.

Floating  
policy by  
ship or  
ships

**30.**—(1) A floating policy is a policy that describes the insurance in general terms and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

(2) The subsequent declaration or declarations may be made by endorsement on the policy or in other customary manner.

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment and they must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be honestly stated, but an omission or erroneous declaration may be rectified even after loss or arrival, provided the omission or declaration was made in good faith.

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject-matter of that declaration. R.S.O. 1950, c. 221, s. 30.

Construc-  
tion of terms  
in policy

**31.**—(1) A policy may be in the form in the Schedule.

(2) Subject to the provisions of this Act, and unless the context of the policy otherwise requires, the terms and expressions mentioned in the Schedule shall be construed as having the scope and meaning in the Schedule assigned to them. R.S.O. 1950, c. 221, s. 31.

Premium to  
be arranged

**32.**—(1) Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable.

(2) Where an insurance is effected on the terms that an additional premium is to be arranged in a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable. R.S.O. 1950, c. 221, s. 32.



## DOUBLE INSURANCE

**33.**—(1) Where two or more policies are effected by or on behalf of the assured on the same adventure and interest or any part thereof, and the sums insured exceed the indemnity allowed by this Act, the assured is said to be over-insured by double insurance.

(2) Where the assured is over-insured by double insurance,

- (a) the assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he may think fit, provided that he is not entitled to receive any sum in excess of the indemnity allowed by this Act;
- (b) where the policy under which the assured claims is a valued policy, the assured must give credit as against the valuation for any sum received by him under any other policy without regard to the actual value of the subject-matter insured;
- (c) where the policy under which the assured claims is an unvalued policy, he must give credit, as against the full insurable value, for any sum received by him under any other policy;
- (d) where the assured receives any sum in excess of the indemnity allowed by this Act, he is deemed to hold such sum in trust for the insurers, according to their right of contribution among themselves. R.S.O. 1950, c. 221, s. 33.

## WARRANTIES, ETC.

**34.**—(1) A warranty, in the following sections relating to warranties, means a promissory warranty, that is to say, a warranty by which the assured undertakes that some particular thing shall or shall not be done, or that some condition shall be fulfilled, or whereby he affirms or negatives the existence of a particular state of facts.

(2) A warranty may be express or implied.

(3) A warranty, as above defined, is a condition that must be exactly complied with, whether it be material to the risk or not and if it is not so complied with, then, subject to any express provision in the policy, the insurer is discharged from liability as from the date of the breach of warranty, but without prejudice to any liability incurred by him before that date. R.S.O. 1950, c. 221, s. 34.

**35.**—(1) Non-compliance with a warranty is excused when, by reason of a change of circumstances, the warranty ceases

When  
breach of  
warranty  
excused

to be applicable to the circumstances of the contract, or when compliance with the warranty is rendered unlawful by any subsequent law.

(2) Where a warranty is broken, the assured cannot avail himself of the defence that the breach has been remedied and the warranty complied with before loss.

(3) A breach of warranty may be waived by the insurer. R.S.O. 1950, c. 221, s. 35.

**Express warranties**

**36.**—(1) An express warranty may be in any form of words from which the intention to warrant is to be inferred.

(2) An express warranty must be included in or written upon the policy, or must be contained in some document incorporated by reference into the policy.

(3) An express warranty does not exclude an implied warranty, unless it is inconsistent therewith. R.S.O. 1950, c. 221, s. 36.

**Warranty of neutrality**

**37.**—(1) Where insurable property, whether ship or goods, is expressly warranted "neutral", there is an implied condition that the property shall have a neutral character at the commencement of the risk, and that, so far as the assured can control the matter, its neutral character shall be preserved during the risk.

(2) Where a ship is expressly warranted "neutral," there is also an implied condition that, so far as the assured can control the matter, she shall be properly documented, that is to say, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers or use simulated papers and if any loss occurs through breach of this condition, the insurer may avoid the contract. R.S.O. 1950, c. 221, s. 37.

**No implied warranty of nationality**

**38.** There is no implied warranty as to the nationality of a ship, or that her nationality shall not be changed during the risk. R.S.O. 1950, c. 221, s. 38.

**Warranty of good safety**

**39.** Where the subject-matter insured is warranted "well" or "in good safety" on a particular day, it is sufficient if it is safe at any time during that day. R.S.O. 1950, c. 221, s. 39.

**Warranty of seaworthiness of ship**

**40.**—(1) In the voyage policy there is an implied warranty that at the commencement of the voyage the ship shall be seaworthy for the purpose of the particular adventure insured.

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall at the commencement of the risk be reasonably fit to encounter the ordinary perils of the port.

(3) Where the policy relates to a voyage that is performed in different stages, during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that at the commencement of each stage the ship is seaworthy in respect of such preparation or equipment for the purposes of that stage.

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

(5) In a time policy there is no implied warranty that the ship shall be seaworthy at any stage of the adventure but where, with the privity of the assured, the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness. R.S.O. 1950, c. 221, s. 40.

**41.**—(1) In a policy on goods or other movables there is no implied warranty that the goods or movables are seaworthy. No implied warranty that goods are seaworthy

(2) In a voyage policy on goods or other movables there is an implied warranty that at the commencement of the voyage the ship is not only seaworthy as a ship, but also that she is reasonably fit to carry the goods or other movables to the destination contemplated by the policy. R.S.O. 1950, c. 221, s. 41.

**42.** There is an implied warranty that the adventure insured is a lawful one, and that, so far as the assured can control the matter, the adventure shall be carried out in a lawful manner. R.S.O. 1950, c. 221, s. 42. Warranty of legality

#### THE VOYAGE

**43.**—(1) Where the subject-matter is insured by a voyage policy "at and from" or "from" a particular place, it is not necessary that the ship should be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time, and that if the adventure is not so commenced the insurer may avoid the contract. Implied condition as to commencement of risk

(2) The implied condition may be negatived by showing that the delay was caused by circumstances known to the insurer before the contract was concluded, or by showing that he waived the condition. R.S.O. 1950, c. 221, s. 43.



Alteration of  
port of  
departure

**44.** Where the place of departure is specified by the policy, and the ship, instead of sailing from that place, sails from any other place, the risk does not attach. R.S.O. 1950, c. 221, s. 44.

Sailing for  
different  
destination

**45.** Where the destination is specified in the policy, and the ship, instead of sailing for that destination, sails for any other destination, the risk does not attach. R.S.O. 1950, c. 221, s. 45.

Change of  
voyage

**46.**—(1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage.

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, that is to say, as from the time when the determination to change it is manifested; and it is immaterial that the ship may not in fact have left the course of voyage contemplated by the policy when the loss occurs. R.S.O. 1950, c. 221, s. 46.

Deviation

**47.**—(1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insurer is discharged from liability as from the time of deviation, and it is immaterial that the ship may have regained her route before any loss occurs.

(2) There is a deviation from the voyage contemplated by the policy,

(a) where the course of the voyage is specially designated by the policy and that course is departed from; or

(b) where the course of the voyage is not specifically designated by the policy, but the usual and customary course is departed from.

(3) The intention to deviate is immaterial; there must be a deviation in fact to discharge the insurer from his liability under the contract. R.S.O. 1950, c. 221, s. 47.

Several ports  
of discharge

**48.**—(1) Where several ports of discharge are specified by the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, she must proceed to them, or such of them as she goes to, in the order designated by the policy and if she does not there is a deviation.

(2) Where the policy is to "ports of discharge", within a given area, which are not named, the ship must, in the absence

of any usage or sufficient cause to the contrary, proceed to them, or such of them as she goes to, in their geographical order and if she does not there is a deviation. R.S.O. 1950, c. 221, s. 48.

**49.** In the case of a voyage policy, the adventure insured must be prosecuted throughout its course with reasonable dispatch, and, if without lawful excuse it is not so prosecuted, the insurer is discharged from liability as from the time when the delay became unreasonable. R.S.O. 1950, c. 221, s. 49. Delay in voyage

**50.—(1)** Deviation or delay in prosecuting the voyage contemplated by the policy is excused, Excuses for deviation or delay

- (a) where authorized by any special term in the policy; or
- (b) where caused by circumstances beyond the control of the master and his employer; or
- (c) where reasonably necessary in order to comply with an express or implied warranty; or
- (d) where reasonably necessary for the safety of the ship or subject-matter insured; or
- (e) for the purpose of saving human life, or aiding a ship in distress where human life may be in danger; or
- (f) where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship; or
- (g) where caused by the barratrous conduct of the master or crew, if barratry be one of the perils insured against.

(2) When the cause excusing the deviation or delay ceases to operate, the ship must resume her course and prosecute her voyage with reasonable dispatch. R.S.O. 1950, c. 221, s. 50.

#### ASSIGNMENT OF POLICY

**51.—(1)** A marine policy is assignable unless it contains terms expressly prohibiting assignment and it may be assigned either before or after loss. When and how policy is assignable

(2) Where a marine policy has been assigned so as to pass the beneficial interest in such policy, the assignee of the policy is entitled to sue thereon in his own name; and the defendant is entitled to make any defence arising out of the contract that he would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.



(3) A marine policy may be assigned by endorsement thereon or in other customary manner. R.S.O. 1950, c. 221, s. 51.

Assured who  
has no  
interest can-  
not assign

**52.** Where the assured has parted with or lost his interest in the subject-matter insured, and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative; provided that nothing in this section affects the assignment of a policy after loss. R.S.O. 1950, c. 221, s. 52.

#### PREMIUM

When  
premium  
payable

**53.** Unless otherwise agreed, the duty of the assured or his agent to pay the premium, and the duty of the insurer to issue the policy to the assured or his agent, are concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium. R.S.O. 1950, c. 221, s. 53.

Policy  
effected  
through  
broker

**54.—(1)** Unless otherwise agreed, where a marine policy is effected on behalf of the assured by a broker, the broker is directly responsible to the insurer for the premium, and the insurer is directly responsible to the assured for the amount that may be payable in respect of losses or in respect of returnable premium.

(2) Unless otherwise agreed, the broker has, as against the assured, a lien upon the policy for the amount of the premium and his charges in respect of effecting the policy, and, where he has dealt with the person who employs him as a principal, he has also a lien on the policy in respect of any balance on any insurance account that may be due to him from such person, unless when the debt was incurred he had reason to believe that such person was only an agent. R.S.O. 1950, c. 221, s. 54.

Effect of  
receipt on  
policy

**55.** Where a marine policy effected on behalf of the assured by a broker acknowledges the receipt of the premium, such acknowledgment is, in the absence of fraud, conclusive as between the insurer and the assured, but not as between the insurer and broker. R.S.O. 1950, c. 221, s. 55.

#### LOSS AND ABANDONMENT

Included and  
excluded  
losses

**56.—(1)** Subject to the provisions of this Act, and unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, but, subject as aforesaid, he is not liable for any loss that is not proximately caused by a peril insured against.

(2) In particular,

- (a) the insurer is not liable for any loss attributable to the wilful misconduct of the assured, but, unless the policy otherwise provides, he is liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew;
  - (b) unless the policy otherwise provides, the insurer on ship or goods is not liable for any loss proximately caused by delay, although the delay is caused by a peril insured against;
  - (c) unless the policy otherwise provides, the insurer is not liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject-matter insured, or for any loss proximately caused by rats or vermin, or for any injury to machinery not proximately caused by maritime perils.
- R.S.O. 1950, c. 221, s. 56.

**57.**—(1) A loss may be either total or partial and any loss <sup>Partial and</sup> ~~total loss~~ other than a total loss, as hereinafter defined, is a partial loss.

(2) A total loss may be either an actual total loss or a constructive total loss.

(3) Unless a different intention appears from the terms of the policy, an insurance against total loss includes a constructive as well as an actual total loss.

(4) Where the assured brings an action for a total loss and the evidence proves only a partial loss, he may, unless the policy otherwise provides, recover for a partial loss.

(5) Where goods reach their destination in specie, but by reason of obliteration of marks, or otherwise, they are incapable of identification, the loss, if any, is partial and not total. R.S.O. 1950, c. 221, s. 57.

**58.**—(1) Where the subject-matter insured is destroyed, <sup>Actual total</sup> ~~loss~~ or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived thereof, there is an actual total loss.

(2) In the case of an actual total loss no notice of abandonment need be given. R.S.O. 1950, c. 221, s. 58.

**59.** Where the ship concerned in the adventure is missing, <sup>Missing</sup> ~~ship~~ and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed. R.S.O. 1950, c. 221, s. 59.

Effect of  
transship-  
ment, etc.

**60.** Where, by a peril insured against, the voyage is interrupted at an intermediate port or place under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and re-shipping the goods or other movables, or in transshipping them, and sending them on to their destination, the liability of the insurer continues, notwithstanding the landing or transshipment. R.S.O. 1950, c. 221, s. 60.

Constructive  
total loss  
defined

**61.**—(1) Subject to any express provision in the policy, there is a constructive total loss where the subject-matter insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure that would exceed its value when the expenditure had been incurred.

(2) In particular, there is a constructive total loss,

(a) where the assured is deprived of the possession of his ship or goods by a peril insured against, and

(i) it is unlikely that he can recover the ship or goods, as the case may be, or

(ii) the cost of recovering the ship or goods, as the case may be, would exceed their value when recovered; or

(b) in the case of damage to a ship, where she is so damaged by a peril insured against that the cost of repairing the damage would exceed the value of the ship when repaired, and in estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account is to be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired; or

(c) in the case of damage to goods, where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival. R.S.O. 1950, c. 221, s. 61.

Effect of  
constructive  
total loss

**62.** Where there is a constructive total loss, the assured may either treat the loss as a partial loss or abandon the subject-matter insured to the insurer and treat the loss as if it were an actual total loss. R.S.O. 1950, c. 221, s. 62.



**63.**—(1) Subject to the provisions of this section, where the assured elects to abandon the subject-matter insured to the insurer, he must give notice of abandonment and if he fails to do so the loss can only be treated as a partial loss.

(2) Notice of abandonment may be given in writing or by word of mouth, or partly in writing and partly by word of mouth, and may be given in any terms that indicate the intention of the assured to abandon his insured interest in the subject-matter insured unconditionally to the insurer.

(3) Notice of abandonment must be given with reasonable diligence after the receipt of reliable information of the loss, but where the information is of a doubtful character the assured is entitled to a reasonable time to make inquiry.

(4) Where notice of abandonment is properly given, the rights of the assured are not prejudiced by the fact that the insurer refuses to accept the abandonment.

(5) The acceptance of an abandonment may be either express or implied from the conduct of the insurer and the mere silence of the insurer after notice is not an acceptance.

(6) Where notice of abandonment is accepted the abandonment is irrevocable and the acceptance of the notice conclusively admits liability for the loss and the sufficiency of the notice.

(7) Notice of abandonment is unnecessary where, at the time when the assured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him.

(8) Notice of abandonment may be waived by the insurer.

(9) Where an insurer has re-insured his risk, no notice of abandonment need be given by him. R.S.O. 1950, c. 221, s. 63.

**64.**—(1) Where there is a valid abandonment, the insurer is entitled to take over the interest of the assured in whatever may remain of the subject-matter insured and all proprietary rights incidental thereto.

(2) Upon the abandonment of a ship, the insurer thereof is entitled to any freight in course of being earned, and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty; and, where the ship is carrying the owner's goods, the insurer is entitled to a reasonable remuneration for the carriage of them subsequent to the casualty causing the loss. R.S.O. 1950, c. 221, s. 64.



PARTIAL LOSSES (INCLUDING SALVAGE AND GENERAL AVERAGE  
AND PARTICULAR CHARGES)

Particular  
average loss

**65.—**(1) A particular average loss is a partial loss of the subject-matter insured, caused by a peril insured against, and which is not a general average loss.

(2) Expenses incurred by or on behalf of the assured for the safety or preservation of the subject-matter insured, other than general average and salvage charges, are called particular charges and particular charges are not included in particular average. R.S.O. 1950, c. 221, s. 65.

Salvage  
charges

**66.—**(1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils.

(2) "Salvage charges" means the charges recoverable under maritime law by a salvor independently of contract but do not include the expenses of services in the nature of salvage rendered by the assured or his agents, or any person employed for hire by them, for the purpose of averting a peril insured against and such expenses, where properly incurred, may be recovered as particular charges or as a general average loss, according to the circumstances under which they were incurred. R.S.O. 1950, c. 221, s. 66.

General  
average loss

**67.—**(1) A general average loss is a loss caused by or directly consequential on a general average act and it includes a general average expenditure as well as a general average sacrifice.

(2) There is a general average act where any extraordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled in the common adventure.

(3) Where there is a general average loss, the party on whom it falls is entitled, subject to the conditions imposed by maritime law, to a rateable contribution from the other parties interested, and such contribution is called a general average contribution.

(4) Subject to any express provision in the policy, where the assured has incurred a general average expenditure, he may recover from the insurer in respect of the proportion of the loss that falls upon him; and, in the case of a general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties liable to contribute.

(5) Subject to any express provision in the policy, where the assured has paid, or is liable to pay, a general average contribution in respect of the subject insured, he may recover therefor from the insurer.

(6) In the absence of express stipulation, the insurer is not liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection with the avoidance of, a peril insured against.

(7) Where ship, freight, and cargo, or any two of those interests, are owned by the same assured, the liability of the insurer in respect of general average losses or contributions is to be determined as if those subjects were owned by different persons. R.S.O. 1950, c. 221, s. 67.

#### MEASURE OF INDEMNITY

**68.**—(1) The sum that the assured can recover in respect of a loss on a policy by which he is insured, in the case of an unvalued policy to the full extent of the insurable value, or <sup>Extent of liability of insurer for loss</sup> in the case of a valued policy to the full extent of the value fixed by the policy, is called the measure of indemnity.

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there is more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy. R.S.O. 1950, c. 221, s. 68.

**69.** Subject to the provisions of this Act and to any express provision in the policy, where there is a total loss of the <sup>Total loss</sup> subject-matter insured,

- (a) if the policy is a valued policy, the measure of indemnity is the sum fixed by the policy;
- (b) if the policy is an unvalued policy, the measure of indemnity is the insurable value of the subject-matter insured. R.S.O. 1950, c. 221, s. 69.

**70.** Where a ship is damaged, but is not totally lost, the measure of indemnity, subject to any express provision in the <sup>Partial loss of ship</sup> policy, is as follows:

1. Where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deduction, but not exceeding the sum insured in respect of any one casualty.
2. Where the ship has been only partially repaired, the assured is entitled to the reasonable cost of such

repairs, computed as above, and also to be indemnified for the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as above.

3. Where the ship has not been repaired and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as above. R.S.O. 1950, c. 221, s. 70.

Partial loss  
of freight

**71.** Subject to any express provision in the policy, where there is a partial loss of freight, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy. R.S.O. 1950, c. 221, s. 71.

Partial loss  
of goods,  
merchandise,  
etc.

**72.** Where there is a partial loss of goods, merchandise, or other movables, the measure of indemnity, subject to any express provision in the policy, is as follows:

1. Where part of the goods, merchandise, or other movables insured by a valued policy is totally lost, the measure of indemnity is such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy.
2. Where part of the goods, merchandise, or other movables insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss.
3. Where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value.
4. "Gross value" means the wholesale price or, if there is no such price, the estimated value, with, in either case, freight, landing charges, and duty paid beforehand; provided that, in the case of goods or mer-



chandise customarily sold in bond, the bonded price is deemed to be the gross value.

5. "Gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers. R.S.O. 1950, c. 221, s. 72.

**73.**—(1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy. The insured value of any part of a species is such proportion of the total insured value of the same as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Act. Apportionment of valuation

(2) Where a valuation has to be apportioned and particulars of the prime cost of each separate species, quality, or description of goods cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the different species, qualities, or descriptions of goods. R.S.O. 1950, c. 221, s. 73.

**74.**—(1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution, if the subject-matter liable to contribution is insured for its full contributory value; but, if such subject-matter is not insured for its full contributory value, or if only part of it is insured, the indemnity payable by the insurer must be reduced in proportion to the under-insurance, and where there has been a particular average loss that constitutes a deduction from the contributory value, and for which the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute. General average contributions and salvage charges

(2) Where the insurer is liable for salvage charges the extent of his liability must be determined on the like principle. R.S.O. 1950, c. 221, s. 74.

**75.** Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third party in respect of such liability. R.S.O. 1950, c. 221, s. 75. Liabilities to third parties

**76.**—(1) Where there has been a loss in respect of any subject-matter not expressly provided for in the foregoing provisions of this Act, the measure of indemnity shall be General provisions as to measure of indemnity



ascertained, as nearly as may be, in accordance with those provisions, in so far as applicable to the particular case.

(2) Nothing in the provisions of this Act relating to the measure of indemnity affects the rules relating to double insurance, or prohibits the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject-matter insured was not at risk under the policy. R.S.O. 1950, c. 221, s. 76.

Particular  
average  
warranties

**77.**—(1) Where the subject-matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy be apportionable; but, if the contract be apportionable, the assured may recover for a total loss of any apportionable part.

(2) Where the subject-matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject-matter insured is warranted free from particular average under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage.

(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject-matter insured and particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded. R.S.O. 1950, c. 221, s. 77.

Successive  
losses

**78.**—(1) Unless the policy otherwise provides and subject to the provisions of this Act, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured.

(2) Where, under the same policy, a partial loss that has not been repaired or otherwise made good is followed by a total loss, the assured can only recover in respect of the total loss.

(3) Nothing in this section affects the liability of the insurer under the suing and labouring clause. R.S.O. 1950, c. 221, s. 78.

**79.**—(1) Where the policy contains a suing and labouring <sup>Suing and labouring clause</sup> clause, the engagement thereby entered into is deemed to be supplementary to the contract of insurance, and the assured may recover from the insurer any expenses properly incurred pursuant to the clause, notwithstanding that the insurer may have paid for a total loss, or that the subject-matter may have been warranted free from particular average, either wholly or under a certain percentage.

(2) General average losses and contributions and salvage charges as defined by this Act are not recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause.

(4) It is the duty of the assured and his agents in all cases to take such measures as may be reasonable for the purpose of averting or minimizing a loss. R.S.O. 1950, c. 221, s. 79.

#### RIGHTS OF INSURER ON PAYMENT

**80.**—(1) Where the insurer pays for a total loss, either of <sup>Right of subrogation</sup> the whole or, in the case of goods, of any apportionable part of the subject-matter insured, he thereupon becomes entitled to take over the interest of the assured in whatever may remain of the subject-matter so paid for, and he is thereby subrogated to all the rights and remedies of the assured in and in respect of that subject-matter as from the time of the casualty causing the loss.

(2) Subject to the foregoing provisions, where the insurer pays for a partial loss, he acquires no title to the subject-matter insured, or such part of it as may remain, but he is thereupon subrogated to all rights and remedies of the assured in and in respect of the subject-matter insured as from the time of the casualty causing the loss, in so far as the assured has been indemnified, according to this Act, by such payment for the loss. R.S.O. 1950, c. 221, s. 80.

**81.**—(1) Where the assured is over-insured by double insur- <sup>Right of contribution</sup> ance, each insurer is bound, as between himself and the other insurers, to contribute rateably to the loss in proportion to the amount for which he is liable under his contract.

(2) If any insurer pays more than his proportion of the loss, he is entitled to maintain an action for contribution against the other insurers, and is entitled to the like remedies as a surety who has paid more than his proportion of the debt. R.S.O. 1950, c. 221, s. 81.

Effect of  
under-  
insurance

**82.** Where the assured is insured for an amount less than the insurable value or, in the case of a valued policy, for an amount less than the policy valuation, he is deemed to be his own insurer in respect of the uninsured balance. R.S.O. 1950, c. 221, s. 82.

#### RETURN OF PREMIUM

Enforcement  
of return

**83.** Where the premium, or a proportionate part thereof, is by this Act declared to be returnable,

- (a) if already paid, it may be recovered by the assured from the insurer; and
- (b) if unpaid, it may be retained by the assured or his agent. R.S.O. 1950, c. 221, s. 83.

Return by  
agreement

**84.** Where the policy contains a stipulation for the return of the premium, or a proportionate part thereof, on the happening of a certain event, and that event happens, the premium, or, as the case may be, the proportionate part thereof, is thereupon returnable to the assured. R.S.O. 1950, c. 221, s. 84.

Return for  
failure of  
considera-  
tion

**85.—(1)** Where the consideration for the payment of the premium totally fails, and there has been no fraud or illegality on the part of the assured or his agents, the premium is thereupon returnable to the assured.

(2) Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the like conditions, thereupon returnable to the assured.

(3) In particular,

- (a) where the policy is void, or is avoided by the insurer as from the commencement of the risk, the premium is returnable, provided that there has been no fraud or illegality on the part of the assured; but if the risk is not apportionable, and has once attached, the premium is not returnable;
- (b) where the subject-matter insured, or part thereof, has never been imperilled, the premium, or, as the case may be, a proportionate part thereof, is returnable; provided that where the subject-matter has been insured "lost or not lost" and has arrived in safety at the time when the contract is concluded, the premium is not returnable unless at such time the insurer knew of the safe arrival;



- (c) where the assured has no insurable interest throughout the currency of the risk, the premium is returnable, provided that this rule does not apply to a policy effected by way of gaming or wagering;
- (d) where the assured has a defeasible interest that is terminated during the currency of the risk, the premium is not returnable;
- (e) where the assured has over-insured under an unvalued policy, a proportionate part of the premium is returnable;
- (f) subject to the foregoing provisions, where the assured has over-insured by double insurance, a proportionate part of the several premiums is returnable; provided that, if the policies are effected at different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured thereby, no premium is returnable in respect of that policy, and when the double insurance is effected knowingly by the assured no premium is returnable. R.S.O. 1950, c. 221, s. 85.

#### MUTUAL INSURANCE

**86.**—(1) Where two or more persons mutually agree to insure each other against marine losses there is said to be a mutual insurance. Modification  
of Act in  
case of  
mutual  
insurance

(2) The provisions of this Act relating to the premium do not apply to mutual insurance, but a guarantee, or such other arrangement as may be agreed upon, may be substituted for the premium.

(3) The provisions of this Act, in so far as they may be modified by the agreement of the parties, may in the case of mutual insurance be modified by the terms of the policies issued by the association or by the rules and regulations of the association.

(4) Subject to the exceptions mentioned in this section, the provisions of this Act apply to a mutual insurance. R.S.O. 1950, c. 221, s. 86.

#### SUPPLEMENTAL

**87.** Where a contract of marine insurance is in good faith effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he is aware of a loss. Ratification  
by assured R.S.O. 1950, c. 221, s. 87.



Implied obligations varied by agreement or usage

**88.**—(1) Where any right, duty, or liability would arise under a contract of marine insurance by implication of law, it may be negatived or varied by express agreement, or by usage, if the usage be such as to bind both parties to the contract.

(2) The provisions of this section extend to any right, duty, or liability declared by this Act which may be lawfully modified by agreement. R.S.O. 1950, c. 221, s. 88.

Reasonable time, etc., a question of fact

**89.** Where by this Act any reference is made to reasonable time, reasonable premium, or reasonable diligence, the question what is reasonable is a question of fact. R.S.O. 1950, c. 221, s. 89.

Rules of common law saved

**90.** The rules of the common law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, continue to apply to contracts of marine insurance. R.S.O. 1950, c. 221, s. 90.

## SCHEDULE

## (Section 31)

## FORM OF POLICY

Be it known that.....as well in.....own name as for and in the name and names of all and every other person or persons to whom the same doth, may, or shall appertain, in part or in all doth make assurance and cause.....and them, and every of them, to be insured lost or not lost, at and from..... Upon any kind of goods and merchandises, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the.....whereof is master under God, for this present voyage,.....or whosoever else shall go for master in the said ship, or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship,.....upon the said ship, etc.,.....and so shall continue and endure, during her abode there, upon the said ship, etc. And further, until the said ship, with all her ordnance, tackle, apparel, etc., and goods and merchandises whatsoever shall be arrived at.....upon the said ship, etc., until she hath moored at anchor twenty-four hours in good safety; and upon the goods and merchandises, until the same be there discharged and safely landed. And it shall be lawful for the said ship, etc., in this voyage, to proceed and sail to and touch and stay at any ports or places whatsoever.....without prejudice to this insurance. The said ship, etc., goods and merchandises, etc., for so much as concerns the assured by agreement between the assured and assurers in this policy, are and shall be valued at.....

Touching the adventures and perils which we, the assurers, are contented to bear and do take upon us in this voyage: they are of the seas, men-of-war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints, and detainerments of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and mariners, and of all other perils, losses, and misfortunes, that have or shall come to the hurt, detriment, or damage of the said goods and merchandises, and ship, etc., or any part thereof. And in case of any loss or misfortune it shall be lawful to the assured, their factors, servants, and assigns, to sue, labour, and travel for, in and about the defence, safeguards, and recovery of the said goods and merchandises, and ship, etc., or any part thereof, without prejudice to this insurance; to the charges whereof we, the assurers, will contribute each one according to the rate and quantity of his sum herein assured. And it is especially declared and agreed that no acts of the insurer or insured in recovering, saving, or preserving the property insured shall be considered as a waiver, or acceptance of abandonment. And it is agreed by us, the insurers, that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street, or in the Royal Exchange, or elsewhere in London. And so we, the assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods to the assured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the assured, at and after the rate of

(Sue and labour clause)

(Waiver clause)

In witness whereof we, the assurers, have subscribed our names and sums assured in

N.B.—Corn, fish, salt, fruit, flour, and seed are warranted free from average, unless general, or the ship be stranded; sugar, tobacco, hemp, flax, hides and skins are warranted free from average, under five pounds per cent; and all other goods, also the ship and freight, are warranted

(Memorandum)

free from average, under three pounds per cent, unless general, or the ship be stranded.

#### RULES FOR CONSTRUCTION OF POLICY

*The following are the rules referred to by this Act for the construction of a policy in the above or other like form, where the context does not otherwise require:*

- |                          |   |
|--------------------------|---|
| Lost or not lost         | 1. Where the subject-matter is insured "lost or not lost" and the loss has occurred before the contract is concluded, the risk attaches, unless at such time the assured was aware of the loss, and the insurer was not.  |
| From                     | 2. Where the subject-matter is insured "from" a particular place, the risk does not attach until the ship starts on the voyage insured.   |
| At and from              | 3. (a) Where a ship is insured "at and from" a particular place, and she is at that place in good safety when the contract is concluded, the risk attaches immediately.   |
| (Ship)                   | (b) If she be not at that place when the contract is concluded, the risk attaches as soon as she arrives there in good safety, and, unless the policy otherwise provides, it is immaterial that she is covered by another policy for a specified time after arrival.  |
| (Freight)                | (c) Where chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded, the risk attaches immediately. If she be not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety.   |
|                          | (d) Where freight, other than chartered freight, is payable without special conditions and is insured "at and from" a particular place, the risk attaches pro rata as the goods or merchandise are shipped; provided that if there be cargo in readiness which belongs to the ship-owner, or which some other person has contracted with him to ship, the risk attaches as soon as the ship is ready to receive such cargo. |
| From the loading thereof | 4. Where goods or other movables are insured "from the loading thereof", the risk does not attach until such goods or movables are actually on board, and the insurer is not liable for them while in transit from the shore to the ship.   |
| Safely landed            | 5. Where the risk on goods or other movables continues until they are "safely landed", they must be landed in the customary manner and within a reasonable time after arrival at the port of discharge, and if they are not so landed the risk ceases.  |
| Touch and stay           | 6. In the absence of any further licence or usage, the liberty to touch and stay "at any port or place whatsoever" does not authorize the ship to depart from the course of her voyage from the port of departure to the port of destination.   |
| Perils of the seas       | 7. The term "perils of the sea" refers only to fortuitous accidents or casualties of the seas. It does not include the ordinary action of the winds and waves.  |
| Pirates                  | 8. The term "pirates" includes passengers who mutiny and rioters who attack the ship from the shore.  |
| Thieves                  | 9. The term "thieves" does not cover clandestine theft or a theft committed by any one of the ship's company, whether crew or passengers.   |
| Restraint of princes     | 10. The term "arrests, etc., of kings, princes, and people" refers to political or executive acts, and does not include a loss caused by riot or by ordinary judicial process.  |
| Barratry                 | 11. The term "barratry" includes every wrongful act wilfully committed by the master or crew to the prejudice of the owner, or, as the case may be, the charterer.  |



12. The term "all other perils" includes only perils similar in kind <sup>All other perils</sup> to the perils specifically mentioned in the policy.

13. The term "average unless general" means a partial loss of the <sup>Average unless general</sup> subject-matter insured other than a general average loss, and does not include "particular charges."

14. Where the ship has stranded, the insurer is liable for the excepted <sup>Stranded</sup> losses, although the loss is not attributable to the stranding, provided that when the stranding takes place the risk has attached and, if the policy be on goods, that the damaged goods are on board.

15. The term "ship" includes the hull, materials and outfit, stores <sup>Ship</sup> and provisions for the officers and crew, and, in the case of vessels engaged in a special trade, the ordinary fittings requisite for the trade, and also, in the case of a steamship, the machinery, boilers, and coals, oils, and engine stores, if owned by the assured.

16. The term "freight" includes the profit derivable by a ship-owner <sup>Freight</sup> from the employment of his ship to carry his own goods or movables, as well as freight payable by a third party, but does not include passage-money.

17. The term "goods" means goods in the nature of merchandise, <sup>Goods</sup> and does not include personal effects or provisions and stores for use on board.

In the absence of any usage to the contrary, deck cargo and living animals must be insured specifically, and not under the general denomination of goods. R.S.O. 1950, c. 221, Sched.

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## CHAPTER 228

## The Marriage Act

## 1. In this Act,

Interpre-  
tation

(a) "church" includes chapel, meeting-house or place set aside for religious worship;

(b) "Indian" means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada);R.S.C. 1952,  
c. 149

(c) "Issuer" means a person authorized under this Act to issue marriage licences;

(d) "judge" means a judge or junior judge of a county or district court;

(e) "licence" means a marriage licence issued under this Act;

(f) "magistrate" means a magistrate appointed under *The Magistrates Act*;R.S.O. 1960,  
c. 226(g) "reserve" means reserve as defined in the *Indian Act* (Canada). R.S.O. 1950, c. 222, s. 1; 1956, c. 45, s. 1.

2. The administration of this Act is under the direction of the Provincial Secretary. R.S.O. 1950, c. 222, s. 2.

Administra-  
tion

3. With the consent of the Provincial Secretary, the Deputy Provincial Secretary may have, use and exercise any power, right or authority conferred by this Act on the Provincial Secretary. R.S.O. 1950, c. 222, s. 3.

Delegation  
of Minister's  
powers

4.—(1) No marriage may be solemnized except under the authority of a licence, special permit or publication of banns.

Authority  
to marry

(2) The Lieutenant Governor or his deputy may authorize by licence (Form 1) the solemnization of marriage.

Licence

(3) The Provincial Secretary may authorize by special permit (Form 2) the solemnization of marriage. R.S.O. 1950, c. 222, s. 4.

Special  
permit

5.—(1) Any person who is eighteen years of age or more may obtain a licence or a special permit or be married under authority of publication of banns, provided no lawful cause exists to hinder the solemnization.

Who may  
marry,  
residents

non-  
residents

(2) No licence shall be issued where neither of the parties to the intended marriage has, for fifteen days immediately preceding the date of the application for a licence, had his usual place of abode within Ontario, unless the Provincial Secretary, in writing, authorizes the issue thereof. R.S.O. 1950, c. 222, s. 5.

Persons  
mentally  
ill, etc.

6. No person shall issue a licence or special permit to or solemnize the marriage of any person who is mentally ill or mentally defective, or who is under the influence of intoxicating liquor or narcotic drugs. R.S.O. 1950, c. 222, s. 6.

Consent to  
marriage  
under  
eighteen,  
father

7.—(1) No person shall,

(a) issue a licence or special permit to; or

(b) solemnize, under the authority of publication of banns, the marriage of,

any person under the age of eighteen years unless the consent in writing of the father is obtained.

mother

(2) Where the father is dead, or is living apart from the mother and such person and is not maintaining or contributing to the support of such person, the consent in writing of the mother shall be obtained.

guardian

(3) Where a guardian has been appointed, his consent in writing only shall be obtained.

Exceptions

(4) Notwithstanding subsections 1 to 3, a licence may be issued to a person under the age of eighteen years if the issuer is satisfied that both parents are dead and no guardian has been appointed or that the person whose consent is required is declared mentally ill or is confined in a hospital for mentally ill or mentally defective persons, or is not resident in Ontario or cannot be found.

Deposit of  
consent

(5) Any consent required by this section shall be deposited with the person issuing the licence or special permit or solemnizing the marriage, as the case may be. R.S.O. 1950, c. 222, s. 7.

Person under  
fourteen  
years

8. No person shall,

(a) issue a licence or special permit to; or

(b) solemnize, under the authority of publication of banns, the marriage of,

any person under the age of fourteen years unless section 7 is complied with and a certificate of a legally qualified medical practitioner, stating that the marriage is necessary to prevent

illegitimacy of offspring, is deposited with the person issuing the licence or special permit or solemnizing the marriage. R.S.O. 1950, c. 222, s. 8.

**9.**—(1) Where the person whose consent is required under section 7 unreasonably or arbitrarily withholds his consent or is by his actions not interested in the maintenance or well-being of the person in respect of whose marriage the consent is required, or where it is uncertain whose consent is required, the person in respect of whose marriage consent is required may apply to a judge without the intervention of a next friend for an order under this section. Application to dispense, with consent

(2) The judge shall hear the application in a summary manner and may make an order dispensing with the consent. R.S.O. 1950, c. 222, s. 9. Order

**10.** Notwithstanding anything in this Act, if the Provincial Secretary considers that circumstances justify the issue of a licence or a special permit in any particular case, he may, in his absolute discretion, authorize the issue of a licence or issue a special permit. R.S.O. 1950, c. 222, s. 10. Discretionary power of Minister

**11.**—(1) A married person whose spouse is missing and who alleges, Application for presumption of death

(a) that his spouse has been continuously absent for at least seven years immediately preceding the application;

(b) that his spouse has not been heard from or heard of during such period by the applicant or to the knowledge of the applicant by any other person; and

(c) that the applicant has made reasonable inquiries and has no reason to believe that his spouse is living,

may apply to a judge for an order under this section.

(2) Upon being satisfied as to the truth of the matters alleged, the judge may, in his discretion, make an order declaring that the spouse shall be presumed dead. Order

(3) Where an order has been obtained under this section, the person in whose favour the order was made may, subject to the provisions of this Act, obtain a licence or special permit or be married under the authority of publication of banns upon depositing a copy of the order with the person issuing the licence or special permit or solemnizing the marriage together with an affidavit (Form 3). Effect of order

(4) Except for the purposes of subsection 3, the order has no effect. R.S.O. 1950, c. 222, s. 11. Idem



Divorced  
persons,  
in Canada

**12—**(1) No issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled in Canada unless such person deposits with the issuer,

- (a) a copy of the final decree or judgment or of the Act dissolving or annulling the marriage, certified by the proper officer; and
- (b) such other material as the issuer may require.

elsewhere

(2) No issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Provincial Secretary is obtained upon the deposit of such material as he may require. R.S.O. 1950, c. 222, s. 12.

Prerequisite  
to licence

**13.—**(1) Before a licence is issued,

- (a) both parties to the intended marriage shall make an affidavit (Form 4); or
- (b) one of the parties shall make an affidavit (Form 4) and deposit with the issuer,
  - (i) a birth certificate of the other party, or
  - (ii) an affidavit by the other party or by some member of his family having personal knowledge of the facts, stating the age, date and place of birth of such other party; provided that where the affidavit is made by the other party to the intended marriage it is sufficient to state his age, date and place of birth, according to the best of his knowledge, information and belief.

Affidavit  
on licence

(2) The affidavit (Form 4) shall be endorsed on the licence. R.S.O. 1950, c. 222, s. 13.

Marriage  
not to be  
performed  
within three  
days of  
date of  
licence

**14.** Where a marriage is to be solemnized under the authority of a licence it shall not take place earlier than the third day after the date of the issue of the licence, but the Provincial Secretary in his absolute discretion may authorize the solemnization of the marriage earlier than such third day. R.S.O. 1950, c. 222, s. 14.

Publication  
of banns

**15.—**(1) Where a marriage is to be solemnized under the authority of publication of banns, the intention to marry shall be proclaimed openly in an audible voice during divine service,

- (a) where the parties are in the habit of attending worship at the same church, being within Canada, at that church; or

(b) where the parties are in the habit of attending worship in different churches, being within Canada, in each such church. R.S.O. 1950, c. 222, s. 15 (1).

(2) The banns shall be published according to the usage of the denomination, faith or creed of the church in which they are published and during divine Sunday service. R.S.O. 1950, c. 222, s. 15 (2); 1955, c. 42, s. 1.

(3) Where the usage of any denomination, faith or creed substitutes any other day as the usual and principal day of the week for the celebration of divine service, the banns shall be published on such other day.

(4) The person or persons who publish banns shall complete proof of publication (Form 5). R.S.O. 1950, c. 222, s. 15 (3, 4).

**16.** Where a marriage is to be solemnized under the authority of publication of banns, it shall not take place earlier than the fifth day after the date of the publication of banns. R.S.O. 1955, c. 42, s. 2.

**17.** No marriage shall be solemnized under the authority of publication of banns unless proof of publication by the person or persons publishing the banns has been deposited with the person solemnizing the marriage. R.S.O. 1950, c. 222, s. 16.

**18.** Banns shall not be published,

(a) where either of the parties to the intended marriage has been married and the marriage has been dissolved or annulled; or

(b) where neither of the parties has had his usual place of abode within Ontario for fifteen days immediately preceding the request for publication. R.S.O. 1950, c. 222, s. 17.

**19.** A marriage shall be solemnized only within the three months immediately following the issue of the licence or special permit, or the publication of banns, as the case may be. R.S.O. 1950, c. 222, s. 18.

**20.** Every marriage shall be solemnized in the presence of the parties and at least two witnesses who shall affix their names as witnesses to the entry in the register made under section 27. R.S.O. 1950, c. 222, s. 19.

Marriage  
certificate

**21.** Every person who solemnizes a marriage shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage specifying the names of the parties, the date of the marriage, the names of the witnesses, and whether the marriage was solemnized under the authority of a licence, special permit or publication of banns. R.S.O. 1950, c. 222, s. 20.

Who may  
solemnize  
marriage

**22.—(1)** No person shall solemnize a marriage unless he is a judge or a magistrate, or is registered under this section as a person authorized to solemnize marriage.

Application  
for regis-  
tration

**(2)** Upon application the Provincial Secretary may, subject to subsection 3, register any person as a person authorized to solemnize marriage.

Who may be  
registered

**(3)** No person shall be registered unless it appears to the Provincial Secretary,

- (a)** that the person has been ordained or appointed according to the rites and usages of the religious body to which he belongs, or is, by the rules of that religious body, deemed ordained or appointed;
- (b)** that the person is duly recognized by the religious body to which he belongs as entitled to solemnize marriage according to its rites and usages;
- (c)** that the religious body to which the person belongs is permanently established both as to the continuity of its existence and as to its rites and ceremonies; and
- (d)** that the person is resident in Ontario or has his parish or pastoral charge in whole or in part in Ontario; provided that in the case of a person who is in Ontario temporarily and who, if resident in Ontario, might be registered under this section, the Provincial Secretary may register him as authorized to solemnize marriage during a period to be fixed by the Provincial Secretary.

Quakers

**(4)** Notwithstanding subsection 1, every marriage solemnized according to the rites, usages and customs of the religious Society of Friends, commonly called Quakers, shall be valid and all the duties imposed by this Act upon a person solemnizing a marriage shall, with respect to such marriage, be performed by the clerk or secretary of the society or of the meeting at which the marriage is solemnized; but nothing herein shall require the marriage to be celebrated or solemnized by such clerk or secretary. R.S.O. 1950, c. 222, s. 21.



**23.**—(1) The Provincial Secretary shall keep a register of <sup>Register</sup> the name of every person registered as a person authorized to solemnize marriage, the date of such registration, and such other particulars as he may deem advisable.

(2) The Provincial Secretary may issue a certificate (Form <sup>Certificate</sup> of registration under this section. R.S.O. 1950, c. 222, s. 22. <sup>of registra-</sup>tion

**24.**—(1) Where it appears to the Provincial Secretary <sup>Cancellation</sup> that any person registered as authorized to solemnize marriage <sup>of registra-</sup> has ceased to possess the qualifications entitling him to be so registered, or for any other cause, the Provincial Secretary may cancel such registration. <sup>tion</sup>

(2) Every religious body, members of which are registered <sup>Notice of</sup> under this Act, shall notify the Provincial Secretary of the <sup>change</sup> name of every such member so registered who has died or has ceased to reside in Ontario or has ceased to be associated with such religious body. R.S.O. 1950, c. 222, s. 23.

**25.** When a person is registered under this Act as author- <sup>Publication</sup> ized to solemnize marriage, and when any such registration is <sup>of registra-</sup> cancelled, the Provincial Secretary shall publish notice thereof <sup>tion and</sup> in *The Ontario Gazette*. R.S.O. 1950, c. 222, s. 24. <sup>cancellation</sup>

**26.**—(1) A judge or magistrate may solemnize marriage <sup>Civil</sup> under the authority of a licence or a special permit. <sup>marriage</sup>

(2) The marriage shall be solemnized in the judge's cham- <sup>Place of</sup> bers or magistrate's office between the hours of 9 o'clock in <sup>solemniza-</sup> the morning and 5 o'clock in the afternoon. <sup>tion</sup>

(3) No particular form of ceremony is required except <sup>Form of</sup> that in some part of the ceremony, in the presence of the judge <sup>ceremony</sup> or magistrate and witnesses, each of the parties shall declare:

I do solemnly declare that I do not know of any lawful impediment why I, AB, may not be joined in matrimony to CD,

and each of the parties shall say to the other:

I call upon these persons here present to witness that I, AB, do take thee, CD, to be my lawful wedded wife (or husband),

after which the judge or magistrate shall say:

I, EF, Judge (or Magistrate) of....., by virtue of the powers vested in me by *The Marriage Act*, do hereby pronounce you AB and CD to be husband and wife.

R.S.O. 1950, c. 222, s. 25.

**27.** Every person shall immediately after he has solemnized <sup>Entry in</sup> a marriage, <sup>marriage</sup> register

(a) where the marriage was solemnized in a church, enter in the church register kept for the purpose; or



- (b) where the marriage was solemnized elsewhere than in the church, enter in a register kept by him for the purpose,

the particulars set out in Form 7, and the entry shall be authenticated by his signature and those of the parties and witnesses. R.S.O. 1950, c. 222, s. 26.

Church  
marriage  
registers

**28.**—(1) Every person registered as authorized to solemnize marriage who is in charge of a church that has not a marriage register shall apply to the clerk of the local municipality in which the church is situate for a marriage register for the church, and the clerk shall thereupon supply such register at the cost of the municipality.

Individual  
registers

(2) Every person registered as authorized to solemnize marriage may apply to the clerk of the local municipality in which he resides for a marriage register for his own use, and the clerk shall thereupon supply such register at the cost of the municipality.

Unorganized  
territory

(3) Where the church is situate or the person is resident in territory without municipal organization, the application referred to in subsection 1 or 2 shall be made to the Provincial Secretary who shall supply such register.

Judges and  
magistrates

(4) The Provincial Secretary shall supply a marriage register to every judge and magistrate.

Property in  
registers

(5) Every marriage register supplied under subsection 1, 2 or 3 is the property of the religious body to which the person who applied for the register belongs, and every marriage register supplied under subsection 4 is the property of the Crown. R.S.O. 1950, c. 222, s. 27.

Statement of  
marriage

**29.**—(1) Before the solemnization of a marriage, the parties to the marriage shall complete the particulars in the statement of marriage (Form 8) endorsed on the licence, special permit or certificate of publication of banns, and leave it with the person who will solemnize the marriage, and forthwith after the solemnization of the marriage,

- (a) the parties to the marriage shall sign the statement;
- (b) at least two witnesses to the marriage shall sign the statement; and
- (c) the person who solemnized the marriage shall complete and sign the certificate on the statement.

To be for-  
warded to  
Registrar  
General

(2) Within two days after the day of the marriage, the person who solemnized the marriage shall forward the state-

ment, duly completed in accordance with subsection 1, to the Registrar General. R.S.O. 1950, c. 222, s. 28.

**30.**—(1) Marriage licences may be issued by the clerk of every city, town and village and by every magistrate in territory without municipal organization and every such clerk and magistrate is *ex officio* an issuer of marriage licences. *Ex officio* issuers

(2) Where it is deemed expedient for the public convenience, the Lieutenant Governor in Council may appoint as an issuer the clerk of any township, or any person resident in the Provisional County of Haliburton, or in a township adjacent thereto, or in a provisional judicial district. R.S.O. 1950, c. 222, s. 29. In townships and unorganized territory

**31.**—(1) An issuer may, with the approval in writing of the Provincial Secretary or of the head of the council of the municipality of which he is clerk, appoint in writing one or more deputies to act for him, and any such deputy while so acting has the power of the issuer appointing him. Deputy issuers

(2) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the reason therefor, and of the name and official position of the person by whom the appointment has been approved, and the Provincial Secretary may at any time cancel the appointment. Notice of appointment of deputy

(3) The deputy shall sign each licence issued by him with the name of the issuer as well as his own name in the following manner: Signature of licences by deputy

AB, Issuer of Marriage Licences, per CD, Deputy Issuer.

R.S.O. 1950, c. 222, s. 30.

**32.** Every licence under the hand and seal of the Lieutenant Governor or his deputy and every special permit issued under the hand and seal of the Provincial Secretary or Deputy Provincial Secretary for the purpose of the solemnization of a marriage, is valid notwithstanding that the Lieutenant Governor or his deputy, or the Provincial Secretary or the Deputy Provincial Secretary, as the case may be, has ceased to hold office before the time of the issue of the licence or special permit. R.S.O. 1950, c. 222, s. 31. Validity of licences and special permits

**33.** An issuer or the Provincial Secretary may require evidence to identify any applicant or to establish his status and may examine, under oath if required, any applicant or other person as to any matter pertaining to the issue of a licence or special permit. R.S.O. 1950, c. 222, s. 32. Evidence on applications

Record of  
licences

**34.**—(1) Every issuer shall keep in his office a record of the serial number and the date of issue of every licence issued by him, and the names and addresses of the parties to the intended marriage.

Searches

(2) Any person is entitled, upon application, to have a search made respecting any licence issued within three months immediately preceding the date of application. R.S.O. 1950, c. 222, s. 33.

Untrue  
information

**35.** Where an issuer has reason to believe that any information set out in the affidavit (Form 4) is untrue, he shall not issue the licence unless, on the production of such further evidence as he may require, he is satisfied as to the truth of the information. R.S.O. 1950, c. 222, s. 34.

Material to  
be for-  
warded, to  
Provincial  
Secretary

**36.**—(1) Every issuer shall, immediately upon issuing a licence, forward to the Provincial Secretary such of the particulars contained in Form 4 as the Provincial Secretary may require and any affidavit under section 39. R.S.O. 1950, c. 222, s. 35 (1); 1956, c. 45, s. 2.

to Registrar  
General

(2) Every issuer immediately upon issuing a licence and every person registered as authorized to solemnize marriage upon publishing banns shall forward to the Registrar General the following:

1. Any consent under section 7 or 8.
2. Any certificate of a medical practitioner under section 8.
3. Any judge's order under section 9.
4. Any judge's order under section 11.
5. Any affidavit (Form 3) under section 11.
6. The copy of any decree, judgment or Act dissolving or annulling a marriage and any other material under section 12.
7. Any affidavit as to age under section 13.
8. Any birth certificate under section 13.
9. Any documentary material obtained under section 33 or 35. R.S.O. 1950, c. 222, s. 35 (2).

Oaths

**37.** Issuers may administer oaths for the purposes of this Act. R.S.O. 1950, c. 222, s. 36.

Licence fee

**38.**—(1) The fee for a licence is \$5 of which sum \$4 shall be remitted by the issuer to the Treasurer of Ontario.



(2) The issuer shall retain \$1 from the licence fee for his <sup>Idem</sup> own use.

(3) Where the issuer is the clerk of a municipality, the council of the municipality may commute the issuer's fees <sup>Commutation of clerk's fees</sup> provided for in subsection 2 for a fixed sum, not exceeding \$2,000, payable annually by the municipality to the issuer, in which case the fees that would otherwise be retained by the issuer shall belong to the municipality.

(4) When the council and the issuer do not agree upon the <sup>Idem</sup> amount of the commutation, the amount may be fixed by a judge. R.S.O. 1950, c. 222, s. 37.

**39.** Where both parties to an intended marriage are <sup>Indians</sup> Indians ordinarily resident on a reserve in Ontario or on Crown lands in Ontario and desire to avail themselves of the provisions of this Act,

(a) before a licence is issued, one of the parties to the intended marriage shall make an affidavit (Form 9) which shall be deposited with the issuer; and

(b) notwithstanding section 38, no fee shall be paid for such licence. 1956, c. 45, s. 3; 1957, c. 67, s. 1.

**40.** The fee for an authorization under subsection 2 of <sup>Non-resident</sup> section 5 is \$5. R.S.O. 1950, c. 222, s. 38.

**41.** The costs of an application under section 11 shall be <sup>Costs on order of presumption of death</sup> fixed by the judge and paid by the applicant. R.S.O. 1950, c. 222, s. 39.

**42.** The fee for the solemnization of a marriage by a judge <sup>Fee on marriage by judge or magistrate</sup> or magistrate is \$10 which shall be remitted by the judge or magistrate, as the case may be, to the Treasurer of Ontario. R.S.O. 1950, c. 222, s. 40.

**43.** Every issuer and every other person having unissued <sup>Property in unissued licences</sup> licences in his possession, custody or control, shall, whenever required so to do, transmit them to the Provincial Secretary, and the property in all unissued licences is in the Crown. R.S.O. 1950, c. 222, s. 41.

**44.** No person who solemnizes or purports to solemnize a marriage is subject to any action or liability by reason of <sup>Protection of persons solemnizing marriage in good faith</sup> there having been any legal impediment to the marriage unless, at the time he performed the ceremony, he was aware of the impediment. R.S.O. 1950, c. 222, s. 42.



Prohibited  
degrees to  
be endorsed

**45.**—(1) Form 10 respecting the prohibited degrees of affinity and consanguinity shall be endorsed on the licence and on the proof of publication of banns.

Changes in  
prohibited  
degrees

(2) If at any time changes are made in the law affecting the prohibited degrees of affinity and consanguinity, the Lieutenant Governor in Council may direct changes to be made in Form 10 so as to make it conformable to the law for the time being. R.S.O. 1950, c. 222, s. 43.

Marriages  
solemnized  
in good  
faith

**46.** If the parties to a marriage solemnized in good faith and intended to be in compliance with this Act are not under a legal disqualification to contract such marriage and after such solemnization have lived together and cohabited as man and wife, such marriage shall be deemed a valid marriage, notwithstanding that the person who solemnized the marriage was not authorized to solemnize marriage, and notwithstanding the absence of or any irregularity or insufficiency in the publication of banns or the issue of the licence or special permit. R.S.O. 1950, c. 222, s. 44.

Issue of  
licence by  
unauthorized  
persons

**47.** Every person who issues a licence, unless authorized so to do, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$300 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1950, c. 222, s. 45.

Marriage of  
mental  
defectives,  
etc.

**48.** Every issuer who issues a licence and every person who solemnizes a marriage, knowing or having reason to believe that either of the parties to the intended marriage or to the marriage is mentally defective or mentally ill or is under the influence of intoxicating liquor or narcotic drugs, is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1950, c. 222, s. 46.

Marriage by  
unauthorized  
person

**49.** Every person not registered as a person authorized to solemnize marriage who solemnizes or undertakes to solemnize any marriage, is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1950, c. 222, s. 47.

False  
statements

**50.** Every person who knowingly makes any false statement in any document required under this Act, in addition to any other penalty or punishment to which he may be liable, is guilty of an offence and on summary conviction is liable to

a fine of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1950, c. 222, s. 48.

**51.** Every person who contravenes any provision of this Act for which no other penalty is provided is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 222, s. 49. <sup>Where no other penalty provided</sup>

FORM 1

(Section 4 (2))

Serial No.

PROVINCE OF ONTARIO

By

Lieutenant Governor of the Province of Ontario

I do hereby authorize by this licence the solemnization of marriage between

..... of ..... and  
(name in full) (address)

..... of .....  
(name in full) (address)

Provided always that, by reason of any Affinity, Consanguinity, Prior Marriage, or other Lawful Cause there is no Legal impediment in this behalf; but if otherwise, this licence is null and void to all intents and purposes whatsoever.

GIVEN under my Hand and Seal at the City of Toronto in the Province of Ontario this.....day of.....in the year of Our Lord.....and in the.....Year of Her Majesty's Reign.

Issued this.....day of.....19.....

.....  
Issuer of Marriage Licences at  
.....

R.S.O. 1950, c. 222, Form 1.

FORM 2

(Section 4 (3))

SPECIAL PERMIT

I, .....  
Provincial Secretary, hereby authorize the marriage of

.....  
of the.....of.....

and.....

of the.....of.....

GIVEN under my hand and seal at.....

this.....day of.....19.....

.....  
(Provincial Secretary)

R.S.O. 1950, c. 222, Form 2.



## FORM 3

(Section 11 (3))

## AFFIDAVIT REGARDING PRESUMPTION OF DEATH

Canada:  
 Province of Ontario,  
 To Wit:

I, ....., do solemnly swear that:

1. A marriage is intended to be solemnized in the Province of Ontario, between the following parties, of whom I am one, namely:

Intended Bridegroom (*name in full*).....

Residence (*address in full*).....

and

Intended Bride (*name in full*).....

Residence (*address in full*).....

2. I was married to.....(*name in full*)  
 on (*date*).....at (*place*).....

3. I have obtained from a judge of the County (*or* District) Court of the County (*or* District) of.....an order declaring that.....(*name in full*) shall be presumed dead.

4. I still have no reason to believe that.....  
 is living.

5. I have given careful consideration to the question of the validity of the intended marriage between.....(the other party to the intended marriage) and myself and understand that and have advised.....(the other party to the intended marriage) that if.....(the person presumed dead) is not in fact dead at the time of the solemnization of the intended marriage, such marriage is void.

6. I have shown.....(the other party to the intended marriage) a copy of the order of presumption of death.

SWORN before me at the  
 .....of.....  
 in the.....of.....  
 ....., this.....  
 day of.....  
 A.D.

**FORM 4**  
**(Section 13)**  
**AFFIDAVIT**

I, .....and  
I, .....  
of the .....in the .....  
of .....make oath and say as follows:  
That, for the space of fifteen days immediately preceding the date of this affidavit.....  
has had .....USUAL place of ABODE within the PROVINCE OF ONTARIO,  
That I believe there is no affinity, consanguinity, prior marriage or other lawful cause or legal impediment to bar or hinder the solemnization of the  
marriage, and  
That the contents set forth herein are to the best of .....knowledge, information and belief, true in every particular:

Names in full	Names in full	Age	Age
Occupation			
Condition in Life			
Religious Denomination	<i>Bachelor, Widower or Divorcee</i>		<i>Spinster, Widow or Divorcee</i>
Residence			
Place of Birth			
Intended Place of Marriage			

Sworn before me at the...

of.....in the County or District of

this.....

(write date in words not numerals)

day of.....19.....

(signature of deponent or deponents, as case may be)

.....  
 (signature of Issuer or Deputy Issuer, as case may be)

..Issuer of Marriage Licences at.

R.S.O. 1950, c. 222, Form 4.

FORM 5  
(Section 15 (4))

No.....

PROOF OF PUBLICATION

On the.....day of....., 19.....,  
I duly published the banns of marriage between.....  
.....  
of the.....of.....  
and.....  
of the.....of.....  
in.....Church in  
the.....of.....

I further certify that I verily believe.....  
.....  
(and).....  
(is or are) in the habit of attending worship at such Church.

Dated this.....day of.....19.....

.....  
(Signature)

.....  
(Address)  
.....

R.S.O. 1950, c. 222, Form 5; 1955, c. 42, s. 3.

FORM 6  
(Section 23 (2))

No.....

CERTIFICATE OF REGISTRATION

as a person authorized to solemnize marriage

Pursuant to THE MARRIAGE ACT, I certify that.....  
.....

of the.....of.....  
in the.....of.....

is registered as a person authorized to solemnize marriage in the PROVINCE  
OF ONTARIO.

GIVEN under my hand at the Parliament Buildings at the City of  
Toronto in the Province of Ontario this.....  
day of.....19.....

(Deputy) Provincial Secretary.

R.S.O. 1950, c. 222, Form 6.



## FORM 7

(Section 27)

## REGISTER OF MARRIAGES

	BRIDEGROOM
Name in full	
Age	
Residence when married	
Place of birth	
Bachelor, Widower or Divorcee (B., W. or D.)	
Occupation	
Religious Denomination of Bridegroom	
Names of Parents	
	BRIDE
Name in full	
Age	
Residence when married	
Place of birth	
Spinster, Widow or Divorcee (S., W. or D.)	
Religious Denomination of Bride	
Names of Parents	
Whether Married by Li- cence or Banns (L. or B.)	
SIGNATURES of Bridegroom	
of Bride	
of Witnesses	
	Residence.....
	Residence.....

I certify the above-named parties were married by me at.....  
 ....., in the County of....., this.....day of.....  
 19.....

.....  
 (Signature)

.....  
 (Address)

FORM 8  
(Section 29 (1))  
STATEMENT OF MARRIAGE

(For use of Registrar General only)

1. Place of Marriage: The ..... of ..... in the ..... of .....  
(city, town, village or township) (county or territorial district)  
2. Date of Marriage: (month by name) (day) (year) Banns ☐ Licence ☐  
Bridegroom (Place X in proper square) Bride

4. Surname Given Names	16. ....
5. The ..... of ..... in the ..... of ..... (city, town, village or township) (county or territorial district)	17. The ..... of ..... in the ..... of ..... (city, town, village or township) (county or territorial district)
6. .... (Bachelor, Widower, Divorcee)	18. .... (Spinster, Widow, Divorcee)
7. ....	19. ....
8. Age ..... 9. Citizenship	20. Age ..... 21. Citizenship
10. .... (If in Canada, state Province; if foreign born state country)	22. .... (If in Canada, state Province; if foreign born state country)
11. ....	23. ....
12. ....	24. ....
13. ....	25. ....
14. .... (Province or Country)	26. .... (Province or Country)
15. .... (Province or Country)	27. .... (Province or Country)

.....  
(Signature of Bridegroom)  
.....  
(Signature of Witness)  
.....  
(Address of Witness)  
I CERTIFY that I solemnized the marriage of the parties named in Items 4 and 17 on the date and at the place set out above.  
\*Registration No. ....  
\*Religious Denomination.....  
.....  
(Signature of person solemnizing the marriage)  
.....  
(Post Office Address)  
Date.....

## FORM 9

(Section 39)

## AFFIDAVIT BY INDIAN

Canada:  
Province of Ontario,

To Wit:

IN THE MATTER OF an application for a  
licence under *The Marriage Act*, for the  
marriage of

.....of.....  
(name in full) (address—giving street  
and number)  
and

.....of.....  
(name in full) (address—giving street  
and number)

I, .....  
(name in full)

of the.....of.....  
(city, town, village or township)

in the.....of.....  
(county or district)

in the.....of.....  
(province)

.....  
(occupation)

## MAKE OATH AND SAY THAT:

1. I am one of the parties aforesaid.
2. According to the best of my knowledge, information and belief, both the parties aforesaid are Indians ordinarily resident on a reserve in Ontario (or on Crown lands in Ontario, as the case may be).

SWORN before me at the

.....of.....

in the.....

of.....in the

Province of Ontario,

this.....day of.....,

19.....

.....  
(Signature of Deponent)

This affidavit may be taken in Ontario by the Marriage Licence Issuer or a Commissioner for taking Affidavits or a Notary Public.

ISSUER PLEASE NOTE—Forthwith after issuance of Marriage Licence forward this affidavit to the Deputy Provincial Secretary, Parliament Buildings, Toronto, with the following information:  
(See Section 36 of *The Marriage Act*.)

.....19.....  
(No. of marriage licence) (date of issue) (place of issue) (signature)

1956, c. 45, s. 4.



## FORM 10

## (Section 45)

Degrees of affinity and consanguinity which, under the statutes in that behalf, bar the lawful solemnization of marriage.

## A man may not marry his

1. Grandmother
2. Grandfather's wife
3. Wife's grandmother
4. Aunt
- †5. Uncle's wife
6. Wife's aunt
7. Mother
8. Step mother
9. Wife's mother
10. Daughter
11. Wife's daughter
12. Son's wife
13. Sister
14. Granddaughter
15. Grandson's wife
16. Wife's granddaughter
17. Niece
18. Nephew's wife
19. Wife's niece\*
- †20. Brother's wife

## A woman may not marry her

1. Grandfather
2. Grandmother's husband
3. Husband's grandfather
4. Uncle
5. Aunt's husband\*
6. Husband's uncle
7. Father
8. Step father
9. Husband's father
10. Son
11. Husband's son
12. Daughter's husband
13. Brother
14. Grandson
15. Granddaughter's husband
16. Husband's grandson
17. Nephew
18. Niece's husband
- †19. Husband's nephew
- †20. Husband's brother

The relationships set forth in this table include all such relationships, whether by the whole or half blood, and whether legitimate or illegitimate.

\*By the Revised Statutes of Canada, 1927, c. 127, s. 2 (1932, c. 10), it is enacted that "A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister or brother of a deceased wife of the man."

†By the Revised Statutes of Canada, 1927, c. 127, s. 3 (1932, c. 10), it is enacted that "A marriage is not invalid merely because the man is a brother of a deceased husband of the woman or a son of a brother or sister of a deceased husband of the woman."

R.S.O. 1950, c. 222, Form 9.



## CHAPTER 229

## The Married Women's Property Act

## 1. In this Act,

Interpre-  
tation.

- (a) "contract" includes the acceptance of any trust or the office of executrix or administratrix;
- (b) "property" includes a thing in action. R.S.O. 1950, c. 223, s. 1.

2.—(1) Every married woman is capable of acquiring, holding and disposing by will or otherwise of any real or personal property as her separate property in the same manner as if she were a *feme sole* without the intervention of a trustee.

Capacity for  
holding, etc.,  
property

(2) Every woman married on or after the 1st day of July, 1884, is also entitled to have and hold and to dispose of as her separate property all real and personal property belonging to her at the time of marriage.

Right to  
hold real  
and personal  
property

(3) Every married woman shall have and hold as her separate property, and may dispose of as such, the wages, earnings, money and property gained or acquired by her in any employment, trade or occupation in which she is engaged or which she carries on and in which her husband has no proprietary interest, or gained or acquired by her by the exercise of any literary, artistic or scientific skill. R.S.O. 1950, c. 223, s. 2.

Right to  
wages, etc.

3.—(1) Every married woman is capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, either in contract or in tort or otherwise, in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant or be made a party to any action or other legal proceeding brought by or taken against her, and any damages or costs recovered by her in any such action or proceeding are her separate property and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property and not otherwise.

Power to  
contract and  
to sue and  
be sued

(2) An action does not lie against a husband for a tort committed by his wife before or after marriage, nor shall he

Husband not  
responsible  
for wife's  
torts



be joined in any action against his wife to recover damages for a tort committed by her.

Husband not  
liable for  
debts con-  
tracted by  
wife before  
marriage

(3) A husband is not liable for the debts of his wife incurred by her before marriage and is not liable on any contracts entered into by his wife before marriage. R.S.O. 1950, c. 223, s. 3.

Married  
women's  
contracts  
after 13th  
April, 1897

4.—(1) Every contract entered into by a married woman on or after the 13th day of April, 1897, otherwise than as an agent,

(a) shall be deemed to be a contract entered into by her with respect to and bind her separate property whether she was or was not in fact possessed of or entitled to any separate property at the time when she entered into the contract;

(b) binds all separate property that she may at the time or thereafter possess or be entitled to; and

(c) is also enforceable by process of law against all property that she may thereafter while discovert possess or be entitled to.

Restraint on  
anticipation

(2) Nothing in this section renders available to satisfy any liability or obligation arising out of such contract any separate property that such married woman is restrained from anticipating. R.S.O. 1950, c. 223, s. 4.

Execution  
of general  
power

5. The execution of a general power by will by a married woman has the effect of making the property appointed liable for her debts and other liabilities, and such property may be seized and sold under an execution against her personal representative after her separate property has been exhausted. R.S.O. 1950, c. 223, s. 5.

Power of  
court to bind  
interest

6. Notwithstanding that a married woman is restrained from anticipation the court may, if it thinks fit, where it appears to the court to be for her benefit, by judgment or order, with her consent, bind her interest in any property. R.S.O. 1950, c. 223, s. 6.

Remedies for  
protection  
of separate  
property

7. Every married woman has in her own name against all persons, including her husband, the same remedies for the protection and security of her own separate property as if such property belonged to her as a *feme sole*, but, except as aforesaid no husband or wife is entitled to sue the other for a tort. R.S.O. 1950, c. 223, s. 7.

**8.** A woman after her marriage continues to be liable in respect and to the extent of her separate property for all debts contracted and all contracts entered into or wrongs committed by her before her marriage, and she may be sued for any such debt and for any liability in damages or otherwise under any such contract or in respect of any such wrong, and all sums recovered against her in respect thereof or for any costs relating thereto, shall be payable out of her separate property. R.S.O. 1950, c. 223, s. 8.

Wife's  
ante-nuptial  
debts, con-  
tracts and  
torts

**9.** For the purposes of this Act, the legal personal representative of any married woman has, in respect of her separate estate, the same rights and liabilities and is subject to the same jurisdiction as she would have had or been subject to if she were living. R.S.O. 1950, c. 223, s. 9.

Legal repre-  
sentative of  
married  
woman

**10.** Nothing in this Act interferes with or affects any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or interferes with or renders inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself has any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement has any greater force or validity against her creditors than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors. R.S.O. 1950, c. 223, s. 10.

Saving of  
settlements,  
and  
restraints  
against  
anticipation

**11.** The provisions of this Act as to the liabilities of married women extend to all liabilities by reason of any breach of trust or devastavit committed by a married woman who is a trustee or executrix or administratrix, either before or after her marriage, and her husband is not subject to such liabilities unless he has acted or intermeddled in the trust or administration. R.S.O. 1950, c. 223, s. 11.

Liabilities

**12.—(1)** In any question between husband and wife as to the title to or possession of property, either party, or any corporation, company, public body or society in whose books any stocks, fund or shares of either party are standing may apply in a summary way to a judge of the Supreme Court or at the option of the applicant irrespectively of the value

Summary  
disposal of  
questions  
between  
husband and  
wife as to  
property

of the property in dispute, to the judge of the county or district court of the county or district in which either party resides, and the judge may make such order with respect to the property in dispute and as to the costs of and consequent on the application as he thinks fit or may direct the application to stand over from time to time, and any inquiry or issue touching the matters in question to be made or tried in such manner as he thinks fit.

Removal of  
proceedings  
from county  
court into  
Supreme  
Court

(2) All proceedings in a county or district court under this section, in which by reason of the character or value of the property in dispute, such court would not have had jurisdiction if this Act had not been passed, may at the option of the defendant or respondent be removed as of right into the Supreme Court, but any order made or act done in the course of the proceedings prior to the removal is valid unless an order is made to the contrary by the Supreme Court.

Hearing

(3) The judge, if either party so requests, may hear any such application in private.

Corpora-  
tion's costs

(4) Any such corporation, company, public body or society shall, in the matter of any such application, for the purposes of costs or otherwise be treated as a stakeholder only.

Appeal

(5) An appeal lies to the Court of Appeal from any order made under this section where the value of the property in dispute exceeds \$200. R.S.O. 1950, c. 223, s. 12.

Order of  
protection  
for the  
earnings of  
minor  
children

**13.—**(1) Any married woman,

- (a) having a judgment for alimony; or
- (b) who lives apart from her husband, having been obliged to leave him from cruelty or other cause which by law justifies her leaving him and renders him liable for her support; or
- (c) whose husband is a mentally incompetent person either with or without lucid intervals; or
- (d) whose husband is undergoing sentence of imprisonment for a criminal offence; or
- (e) whose husband from habitual drunkenness, profligacy or other cause neglects or refuses to provide for her support and that of his family; or
- (f) whose husband has never been in Ontario; or
- (g) who is deserted or abandoned by her husband,

may obtain an order of protection entitling her, notwithstanding her coverture, to have and to enjoy all the earnings



of her minor children, and any acquisitions therefrom, free from the debts and obligations of her husband and from his control or disposition, and without his consent, in as full and ample a manner as if she continued sole and unmarried.

(2) The married woman may at any time apply, or the husband or any of the husband's creditors may at any time, on notice to the married woman, apply for the discharge of the order of protection, and if an order for discharge is made it may be registered or filed in the same manner as the original order. Discharge of order

(3) Either order may issue in duplicate and, where the married woman resides in a city or town in which there is a magistrate, the order of protection or any order discharging it shall be made by the magistrate and shall be registered in the registry office of the registry division in which the city or town is situate. By whom made in cities and towns

(4) Where the married woman does not reside in a city or town in which there is a magistrate, the order shall be made by the judge or one of the judges or the acting or deputy judge of the division courts or a division court of the county or district in which the married woman resides, and instead of being registered shall be filed for public inspection with the clerk of the division court of the division within which the married woman resides. By whom order made elsewhere

(5) The hearing of an application for an order of protection or for an order discharging the same may be public or private at the discretion of the judge or magistrate. Hearing

(6) The order for protection has no effect until it is registered or filed, and the registrar or clerk shall immediately on receiving the order endorse thereon the day of registering or filing the same. Order not to have effect until registered or filed

(7) The order discharging an order of protection shall not be retroactive. Operation of order discharging

(8) The order of protection shall protect the earnings of the minor children of the married woman until an order is made discharging the order of protection, and she shall continue to hold and enjoy to her separate use whatever she may have acquired by the earnings of her minor children during the interval between the registering or filing of the order of protection and the making of the order discharging it. R.S.O. 1950, c. 223, s. 13. From what time order of protection to take effect

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## CHAPTER 230

## The Master and Servant Act

**1.** In this Act, "wages" means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1950, c. 224, s. 1.

*Interpretation*

**2.** No voluntary contract of service or indenture is binding for longer than a term of nine years from the date thereof. R.S.O. 1950, c. 224, s. 2.

*Limitation of voluntary contract of service*

**3.—(1)** An agreement entered into by a workman, servant or employee and his master or employer under which a share of the profits of any trade, calling, business or employment is to be paid to the workman, servant or employee in lieu of or in addition to salary, wages or other remuneration, unless the agreement otherwise provides or a contrary intention may be reasonably inferred therefrom, does not,

*Agreement for share in profits of business*

(a) create any relation in the nature of a partnership or the rights or liabilities of partners; or

(b) give to the workman, servant or employee the right to examine into the accounts or interfere in the management or affairs of the trade, calling or business.

(2) Any statement or return by the master or employer of the net profits of the trade, calling, business or employment on which he declares and appropriates the share of profits payable under such agreement is final and conclusive between the parties and all persons claiming under them, and is not impeachable upon any ground, except fraud. R.S.O. 1950, c. 224, s. 3.

*Employer's statement of profits to be final*

**4.—(1)** Upon the complaint on oath of a servant or labourer against his master or employer concerning any non-payment of wages a justice of the peace may summon the master or employer to appear before him at a reasonable time to be stated in the summons, and he or some other justice upon proof on oath of the personal service of the summons, or of its service as hereinafter authorized, shall examine into the matter of the complaint, whether or not the master or employer appears, and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service or employment of the master or employer, and may direct the

*Complaints by servants for non-payment of wages*



payment to him of any wages found to be due, not exceeding the sum of \$200 and the justice shall make such order as to him seems just and reasonable for the payment of such wages, with costs, and in case of the non-payment of the same, together with the costs, for the space of eight days after the order has been made the justice shall issue his warrant of distress for the levying of the wages, together with the costs of the order and of the distress.

Where  
complaints  
may be  
prosecuted

(2) A complaint may be prosecuted and determined in any county or district in which the person complained against is found, or in any county or district in which the person complained against carries on business.

Time within  
which pro-  
ceedings may  
be taken

(3) Proceedings may be taken under this Act within one month after the engagement or employment has ceased, or within one month after the last instalment of wages under the agreement of hiring has become due, whichever last happens.

Work done  
in Ontario  
under  
agreement  
made out of  
Ontario

(4) Proceedings may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal or written agreement or bargain made out of Ontario.

When master  
claims  
set-off

(5) Where the master or employer claims a set-off or makes a claim for unliquidated damages, the justice of the peace shall investigate the same and give judgment for the balance of wages, if any, due to the claimant after deducting the set-off or claim.

Limit of  
jurisdiction  
as to set-off

(6) The justice of the peace does not have jurisdiction to adjudicate upon a set-off or claim exceeding the claim for wages except to the extent of the wages. R.S.O. 1950, c. 224, s. 4.

Additional  
remedy in  
cases before  
magistrate

5. Where the proceedings are taken before a magistrate, and payment of wages is ordered by him to be made by the master or employer to the servant or labourer, and the same are not paid within the time limited by the order, the same proceedings may be taken by the person claiming the benefit of the order as may be taken by a party having an unsatisfied judgment or order in a division court for the payment of any debt, damages or costs, as respects the examination of the judgment debtor touching his estate and effects, the means he has of discharging his liability, and the disposal he has made of any property, and the magistrate has the like power and authority to enforce payment of the debt as are possessed by a judge of a division court in like cases, and the practice and proceedings thereon shall be the same as nearly as may be and have the same effect as provided in *The Division Courts Act* with respect to judgment debtors. R.S.O. 1950, c. 224, s. 5.

6. Subject to section 8, the magistrate may name in the order for payment of wages such time, not exceeding twenty-one days, as to him may seem just and reasonable for the payment of the same and costs, and in case of non-payment within such time the complainant is entitled to take forthwith the proceedings for enforcing payment herein provided. R.S.O. 1950, c. 224, s. 6.

Limit of  
time for  
payment

7. Where an order is made under this Act by a magistrate for the payment of money, such order may be proceeded upon and enforced in the manner provided by section 694 of the *Criminal Code* (Canada) and it applies as if it were set out and enacted herein. R.S.O. 1950, c. 224, s. 7.

Procedure  
upon order of  
magistrate

1953-54,  
c. 51 (Can.)

8.—(1) In the case of wages due to any mechanic, labourer or other person in respect of work of the character mentioned in section 5 of *The Mechanics' Lien Act* the jurisdiction of a magistrate of a city under this Act extends to wages for thirty days, or for a balance equal to the wages for thirty days, though the same or the balance thereof exceed the sum of \$200.

Jurisdiction  
of magis-  
trates in  
cities  
R.S.O. 1960,  
c. 233

(2) Where no specific rate of wages has been expressly agreed to between the parties, the magistrate of a city may order payment of the wages, reckoning the amount thereof according to the current rate of wages in the city in like cases, or according to what may appear to be a just and reasonable allowance.

Where no  
specific rate  
of wages  
agreed on

(3) The order shall direct payment of the wages to be made forthwith, and a warrant of distress shall be issued accordingly, unless the master or employer makes oath, and the magistrate believes, that the master or employer is unable to make the payment forthwith, and expects to be able to pay and intends to pay the same within the time given, and unless also the magistrate considers the proposed delay to be under the circumstances reasonable, and the magistrate, if he sees fit, may order security to be given as a condition of delay.

Order for  
payment  
of wages,  
enforcing

(4) In case of an adjournment at the instance of the master or employer the same shall be on payment for the claimant's time in attending the court, the amount to be fixed by the magistrate, and such payment shall be made forthwith unless the magistrate sees reason for dispensing with immediate payment.

Adjourn-  
ment at in-  
stance of  
master

(5) The order for payment may be filed in the division court that would be the proper court for bringing an action for the wages, and on such filing the order becomes a judgment of such division court and may be enforced as a judgment of that court. R.S.O. 1950, c. 224, s. 8.

Enforcement  
in division  
court

Service of  
summons,  
etc.

**9.**—(1) Every summons issued under this Act against an individual, firm or corporation, and every subsequent paper or proceeding in the action or proceeding in which the summons has been issued may be served, except in the cases provided for by subsection 2, upon the person to whom it is directed either by delivering it to him personally or, if he cannot be found conveniently, by leaving the same for him at any place where such individual, firm or corporation carries on business within the county or district in which the justice of the peace issuing the summons has jurisdiction, with some adult person employed in the office or place of business of such person.

Service on  
certain  
public  
companies

(2) In cases against railway, telegraph, telephone or express companies every such summons and other papers may be served on any agent of the company whose office or place of business as such agent is within such county or district, and for the purposes of this section the word "agent" includes,

- (a) in the case of a railway company, a station master having charge of a station belonging to the company;
- (b) in the case of a telegraph company, a person having charge of a telegraph office belonging to the company;
- (c) in the case of a telephone company, a person having charge of a telephone office belonging to the company; and
- (d) in the case of an express company, a person having charge of an express office belonging to the company.

Effect of  
service under  
this section

(3) Service as authorized by this section has the same effect as personal service. R.S.O. 1950, c. 224, s. 9.

Appeal

**10.**—(1) An appeal from an order for the payment of wages, or order of dismissal from service or employment, or against any decision of any justice of the peace or magistrate under this Act shall be made to the division court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the division court held in the division in which the party or parties complained against or one of them carried on business, and in case of dismissal of the appeal, or affirmance of the order or decision, the court appealed to shall enforce the order for payment of wages or of dismissal, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect.

Idem

(2) The appeal shall be taken within the time and as nearly as may be, in the manner provided by *The Summary Con-*



*victions Act* as to appeals to a county or district court, and the proceedings upon and incidental to the appeal and subsequent thereto shall, except as provided by subsection 1 and by section 11, be the same as nearly as may be, as in the case of an appeal under *The Summary Convictions Act*. R.S.O. 1950, <sup>R.S.O. 1960,</sup> c. 224, s. 10. <sup>c. 387</sup>

**11.**—(1) The appeal may be tried with a jury if the appellant files with the clerk of the court within ten days after the order or decision a notice requiring a jury, or if the respondent within four days after the service of the notice of appeal upon him files a notice with the clerk requiring a jury, and if the proper fees are in either case deposited with the clerk; otherwise the judge may try the appeal without a jury or may summon a jury from the body of the court as to him seems meet. <sup>Trial with or without jury</sup>

(2) Upon the application of either party when a jury is not required the judge may try the appeal at such time and place as he may appoint, and upon such notice as to him seems reasonable. <sup>Time and place for hearing appeals</sup> R.S.O. 1950, c. 224, s. 11.

**12.**—(1) Every agreement or bargain, verbal or written, expressed or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act whereby it is agreed that this Act shall not apply, or that the remedies hereby provided shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. <sup>Contracts waiving application of Act to be void</sup>

(2) This section does not apply to any manager, officer or foreman or to any other person whose wages are more than \$5 a day. <sup>Section not to apply to certain persons</sup> R.S.O. 1950, c. 224, s. 12.



## CHAPTER 231

## The Maternity Boarding Houses Act

1. In this Act, "medical officer of health" means the medical officer of health of the municipality in which any house required by this Act to be registered is situate, and where the house is situate in territory without municipal organization, means the medical officer of health appointed for the locality under *The Public Health Act*. R.S.O. 1950, c. 225, s. 1. Interpretation R.S.O. 1960, c. 321

2.—(1) No person shall receive or retain for hire or reward any woman or girl for accouchement, or keep unmarried women or girls, being mothers of infants with infants for board or lodging, or keep a maternity boarding house, unless registered under this Act. Maternity boarding houses to be registered

(2) No person whose house is registered under this section shall receive or retain therein for hire or reward any person except women or girls for accouchement, or mothers with infants. R.S.O. 1950, c. 225, s. 2. Persons who may be received in maternity boarding houses

3.—(1) No person shall receive or retain for hire or reward one or more infants under three years of age for the purpose of nursing or maintaining such infant or infants for a longer period than twenty-four hours, except in a house that is registered under this Act, but any person may be exempted from this section by the medical officer of health of a city or by the Director of Child Welfare on proof that one child only is thus cared for. Homes for infant children to be registered

(2) No person whose house is registered under this section shall receive or retain therein for hire or reward any person except infants under three years of age. R.S.O. 1950, c. 225, s. 3. Only children under 3 to be received

4.—(1) The medical officer of health or any officer specially appointed by him for that purpose shall keep a register of the names of persons applying to register under this Act, and therein shall cause to be registered the name and house of every person so applying and the situation of the house, and the medical officer of health shall fix the number of women or girls or infants who may be received into a house so registered. Register



Registration,  
duration and  
fee

(2) The registration shall remain in force for one year, and a fee, not exceeding \$10, shall be charged for registration. R.S.O. 1950, c. 225, s. 4.

Discretion  
as to  
registration

5. The medical officer of health may refuse to register any house unless satisfied that it is suitable for the purposes for which it is to be registered, and unless satisfied by the production of certificates that the person applying to be registered is of good character and able to maintain, keep and properly lodge such women or girls or infants. R.S.O. 1950, c. 225, s. 5.

Cancelling  
registration

6. If it is shown to the satisfaction of the medical officer of health that a person whose house is registered under this Act has been guilty of serious neglect or is incapable of providing the women or girls or infants entrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of women or girls or infants, the medical officer of health may remove the name and house from the register. R.S.O. 1950, c. 225, s. 6.

Register to  
be kept by  
keeper of  
boarding  
house or  
home

7. Every person registered under this Act shall immediately enter in a register to be kept by him the name and age of every woman or girl or infant and also the place from which the woman or girl or infant came before entering the house, and shall also enter in the register the name of the medical practitioner who attended at any birth taking place in the house or who attended any infant in the house, and when any such woman or girl or infant leaves the house, the place to which they are removed, and the date of the removal, and also whether the infant was taken away with the mother or how otherwise disposed of, or how children boarded without their mothers are disposed of, and shall forthwith transmit to the medical officer of health a copy of every entry made in the register, and shall produce the register when required by the medical officer of health or by any person appointed by him, and in the event of his refusing so to produce the register or neglecting to enter in a register the required particulars, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 225, s. 7.

Forms for  
registration  
to be fur-  
nished to  
keepers

8. The person registered is entitled to receive gratuitously from the medical officer of health a book of forms for the registration of persons received into the house, which book shall also contain a printed copy of this Act. R.S.O. 1950, c. 225, s. 8.

Births in  
houses to  
be attended  
by physician

9. The person registered shall ensure that every birth that takes place in the house is attended by a legally qualified medi-

cal practitioner, who shall report forthwith to the medical officer of health the fact of the birth having taken place and shall also give notice of the same in the manner provided by *The Vital Statistics Act*. R.S.O. 1950, c. 225, s. 9.

R.S.O. 1960,  
c. 419

**10.** The person registered shall within twenty-four hours after the death of any inmate of the house, whether a woman, a girl, or an infant born therein or brought thereto as a boarder, cause notice thereof to be given to the medical officer of health, who shall immediately call the coroner to hold an inquest on the body of such inmate, unless a certificate under the hand of a legally qualified medical practitioner is produced to him by the person registered that such medical practitioner had personally attended or examined the person so dying and also specifying the cause of death, and the medical officer of health is satisfied that there is no ground for holding an inquest. R.S.O. 1950, c. 225, s. 10.

Notice of  
deaths to  
M.O.H.

**11.** The medical officer of health shall provide for the visiting and inspecting, from time to time, of every house registered under this Act, and the person appointed to inspect is entitled to enter the house at any time and examine every part thereof and call for and examine the register kept by the person registering the house and to inquire into all matters concerning the house and the inmates thereof, and the person registered shall give all reasonable information to the person making the inspection, and afford him every reasonable facility for viewing and inspecting the premises, and seeing the inmates thereof. R.S.O. 1950, c. 225, s. 11.

Visitation  
and inspection

**12.** No child under three years of age, whether an inmate of any house registered under this Act or born therein or brought thereto shall be given out for adoption except by and with the consent of a children's aid society or other duly incorporated benevolent or charitable institution or society, or of the Director of Child Welfare, under such rules and regulations in that behalf as may be approved of by the Lieutenant Governor in Council. R.S.O. 1950, c. 225, s. 12.

Adoption  
of children  
from homes

**13.** No person registered under this Act shall advertise that he will adopt a child or children or hold out inducements to parents to part with their offspring, and when any such child is transferred by his parents or is given out for adoption to other persons, such transfer shall be made with the knowledge and consent of the agent or secretary of a children's aid society, or of the Director of Child Welfare. R.S.O. 1950, c. 225, s. 13.

Advertising  
for children  
for adoption  
prohibited

Securing  
registration  
by false  
representa-  
tion, etc.

**14.** No person shall make any false representation for the purpose of obtaining registration under this Act, or make use of any false certificate knowing it to be false, or falsify any register kept in pursuance of this Act. R.S.O. 1950, c. 225, s. 14.

Registers,  
contents of,  
not to be  
disclosed

**15.** The medical officer of health shall not, nor shall any officer employed by him, nor shall the person registered as keeper of any house, divulge or disclose the contents of the register or any of the particulars entered therein, except upon inquiry before a court of law, or at a coroner's inquest, or before some other competent tribunal, or, in the case of such officer or registered person, for the information of the medical officer of health. R.S.O. 1950, c. 225, s. 15.

Record of  
antecedents  
of inmates

**16.** The managers of every maternity hospital, infants' home or other refuge for women, shall ascertain and record the antecedents of women and girls coming under their care, and shall furnish to the medical officer of health such information in their possession as may be called for from time to time. R.S.O. 1950, c. 225, s. 16.

Penalties

**17.** Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction where no other penalty is provided is liable to a fine of not more than \$100, and when registered under this Act is also liable to have his name and house removed from the register. R.S.O. 1950, c. 225, s. 17.

Expenses of  
execution  
of Act

**18.** All expenses incurred in and about the execution of this Act and the trial of offenders thereunder shall be borne by the municipality in which the registered house is situated, or in case it is situated in territory without municipal organization, by the Province. R.S.O. 1950, c. 225, s. 18.

Application  
of Act  
R.S.O. 1960,  
c. 305

**19.** This Act does not apply to any premises licensed under *The Private Hospitals Act*. R.S.O. 1950, c. 225, s. 19.

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## CHAPTER 232

## The Matrimonial Causes Act

**1.** In any action for divorce or to declare the nullity of any marriage, the court may order that the husband shall secure to the wife, unless she has been guilty of adultery, such gross sum of money or annual sum of money for any term, not exceeding her life, as, having regard to her fortune, if any, and to the ability of the husband and to the conduct of the parties, may be deemed reasonable and may suspend the pronouncement of the judgment absolute until all necessary deeds and instruments have been executed. R.S.O. 1950, c. 226, s. 1.

**2.**—(1) In addition to or in substitution for an order under section 1 the court may direct the husband to pay to the wife, unless she has been guilty of adultery, during the joint lives of the husband and wife and so long as she remains chaste such monthly or weekly sum for her support and maintenance as the court may think reasonable, provided that,

(a) if the husband after any such order becomes, from any cause, unable to make the payments, the court may discharge or modify the order or temporarily suspend the order in whole or in part and may subsequently revive it in whole or in part as may be deemed proper;

(b) if the means of the husband shall at any time after the making of any such order be increased, the court may, if it is deemed proper, increase the amount payable thereunder;

(c) such payments shall cease on the wife marrying again.

(2) The court has the same power to make an order for the payment of interim alimony as in the case of an action for alimony. R.S.O. 1950, c. 226, s. 2.

**3.** If a judgment for divorce is pronounced by reason of the adultery of the wife and it appears that the wife is entitled to property either in possession or reversion, the court may order such settlement as it thinks reasonable of her property or any part thereof for the benefit of the children of the marriage or their issue or any or either of them. R.S.O. 1950, c. 226, s. 3.

Power of  
court where  
marriage  
settlement

4. If a judgment for divorce is pronounced and it appears that a marriage settlement has been made, the court may make such order with reference to the application of the whole or any part of the property settled for the benefit of the children of the marriage as the court may under all the circumstances of the case deem proper. R.S.O. 1950, c. 226, s. 4.

Power as to  
custody of  
children

5.—(1) In any action for divorce the court may from time to time and either before or after the judgment absolute, make such provision as appears to be just with regard to the custody, maintenance and education of the children of the marriage and may direct payment by either the father or the mother of such sum as may be necessary for the due care, maintenance and education of the children of the marriage.

Who may  
make ap-  
plication

(2) An application under this section may be made by either husband or wife or by the children by their next friend either at the hearing of the case or upon summary application therein. R.S.O. 1950, c. 226, s. 5.

Interpre-  
tation  
R.S.O. 1960,  
c. 53

6.—(1) In this section, "child of the marriage" and "child" include a child adopted under Part IV of *The Child Welfare Act*, or a predecessor thereof, by the parties to the action but do not include a child of the marriage of the parties who has been adopted by another person under Part IV of *The Child Welfare Act* or a predecessor thereof. 1955, c. 43, s. 1 (1).

Divorce  
actions,  
children  
under 16

(2) Where the statement of claim in any action for the dissolution of marriage contains particulars as to any child of the marriage who is under sixteen years of age at the time of the commencement of the action, the Official Guardian shall cause an investigation to be made and shall report to the court upon all matters relating to the custody, maintenance and education of the child.

Agents

(3) The Official Guardian may engage any person to make such investigation on his behalf.

Report to be  
received in  
evidence

(4) An affidavit of any person making the investigation, verifying the report as to such facts as are within his knowledge and setting out the source of his information and his belief as to any other facts, with the report marked as an exhibit thereto, shall be received in evidence upon the trial of the action.

Attendance  
at trial

(5) Where the facts contained in the report are disputed, the Official Guardian or his agent shall attend the trial on behalf of the child and shall cause the person making the investigation to attend as a witness. R.S.O. 1950, c. 226, s. 6 (1-4).

(6) Notwithstanding that no claim for custody or maintenance of the child is made in the action, the judge presiding at the trial may make such order as to the custody or maintenance, or both, of the child as may seem proper. 1955, c. 43, s. 1 (2). <sup>Powers of Judge</sup>

(7) The judge in his discretion may order that the costs of the Official Guardian, including his disbursements in connection with the investigation, be paid by any party to the action. <sup>Costs</sup>

(8) Any person affected by an order made under this section, including the Official Guardian on behalf of the child, may appeal therefrom to the Court of Appeal. <sup>Appeal</sup>

(9) The Rules Committee may make rules for carrying this section into effect and except where inconsistent with this section or such rules, *The Judicature Act* and the rules made thereunder apply to proceedings under this section. <sup>Rules R.S.O. 1960, c. 197</sup>

(10) This section applies to actions for divorce that are commenced on or after the 1st day of April, 1950. R.S.O. 1950, c. 226, s. 6 (6-9). <sup>Application of section</sup>

7.—(1) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted may appeal to the Court of Appeal from the judgment nisi, but no appeal lies from the judgment absolute in any such action by any party who having had time and opportunity to appeal from the judgment nisi has not done so. <sup>Rights of appeal</sup>

(2) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted or any person who intervened or who applied to show cause why the judgment should not be made absolute may appeal to the Court of Appeal from the judgment or order disposing of the matter raised by the intervention or by the application. <sup>Idem</sup>

(3) This section applies to actions for divorce or for the annulment of a marriage in which judgment nisi is granted on or after the 1st day of April, 1950. R.S.O. 1950, c. 226, s. 7. <sup>Application of section</sup>

8. After the granting of a judgment absolute of divorce the wife shall be regarded as a *feme sole* so far as her property and her right to contract are concerned. R.S.O. 1950, c. 226, s. 8. <sup>After divorce wife a feme sole</sup>

9. The rules of court relating to the conduct of matrimonial causes may be repealed, amended or varied by the Rules Committee, subject to the approval of the Lieutenant Governor in Council. R.S.O. 1950, c. 226, s. 9. <sup>Rules confirmed with right to repeal, amend, etc.</sup>



R.S.C. 1952,  
c. 85,  
enacted  
in part

**10.** So many of the provisions of the *Divorce Act* (Ontario) (Canada) as are or may be within the legislative competence of this Legislature are hereby enacted as if fully set out in this Act. R.S.O. 1950, c. 226, s. 10.

## CHAPTER 233

**The Mechanics' Lien Act****1. In this Act,**Interpre-  
tation

(a) "contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or service or placing or furnishing materials for any of the purposes mentioned in this Act;

(b) "material" or "materials" includes every kind of movable property;

(c) "owner" includes any person, body corporate or politic, including a municipal corporation and a railway company, having any estate or interest in the land upon which or in respect of which the work or service is done, or materials are placed or furnished, at whose request, and

(i) upon whose credit, or

(ii) on whose behalf, or

(iii) with whose privity and consent, or

(iv) for whose direct benefit,

work or service is performed or materials are placed or furnished and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished;

(d) "registrar" includes master of titles and local master of titles;

(e) "registry office" includes the land titles office;

(f) "subcontractor" means a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another subcontractor;

(g) "wages" means the money earned by a mechanic or labourer for work done by time or as piece work.  
R.S.O. 1950, c. 227, s. 1.

Exception  
of streets  
or highways

**2.** Nothing in this Act extends to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon. R.S.O. 1950, c. 227, s. 2.

Contract  
price a  
trust fund

**3.—(1)** All sums received by a builder or contractor or a subcontractor on account of the contract price are and constitute a trust fund in the hands of the builder or contractor, or of the subcontractor, as the case may be, for the benefit of the proprietor, builder or contractor, subcontractors, Workmen's Compensation Board, workmen and persons who have supplied material on account of the contract, and the builder or contractor or the subcontractor, as the case may be, is the trustee of all such sums so received by him, and until all workmen and all persons who have supplied material on the contract and all subcontractors are paid for work done or material supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto, may not appropriate or convert any part thereof to his own use or to any use not authorized by the trust. R.S.O. 1950, c. 227, s. 3.

Offence and  
penalty

**(2)** Every builder, contractor or subcontractor who appropriates or converts any part of the contract price referred to in subsection 1 to his own use or to any use not authorized by the trust is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years or both, and every director or officer of a corporation who knowingly assents to or acquiesces in any such offence by the corporation is guilty of such offence in addition to the corporation.

Saving

**(3)** Notwithstanding the other provisions of this section, where a builder, contractor or subcontractor has paid in whole or part for any materials supplied on account of the contract, or any workman or subcontractor who has performed any work or services or placed or furnished any material in respect of such contract, the retention by such builder, contractor or subcontractor of any amount so paid by him shall not be deemed an appropriation or conversion thereof to his own use or to any use not authorized by the trust. 1952, c. 54, s. 1.

Agreements  
waiving  
application  
of Act to  
be void

**4.—(1)** Every agreement, verbal or written, express or implied, on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act, that this Act does not apply, or that the remedies provided by it are not available for the benefit of such person, is null and void. R.S.O. 1950, c. 227, s. 4 (1).



(2) This section does not apply to a manager, officer or foreman, or to any other person whose wages are more than \$15 a day. R.S.O. 1950, c. 227, s. 4 (2); 1954, c. 49, s. 1. Exception as to certain employees

(3) No agreement deprives any person otherwise entitled to a lien under this Act who is not a party to the agreement, of the benefit of the lien, but it attaches, notwithstanding such agreement. R.S.O. 1950, c. 227, s. 4 (3). Effect upon third party of agreement waiving lien

#### CREATION OF LIEN

**5.**—(1) Unless he signs an express agreement to the contrary and in that case subject to section 4, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, pavement, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, or the appurtenances to any of them for any owner, contractor, or subcontractor, by virtue thereof has a lien for the price of the work, service or materials upon the estate or interest of the owner in the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, and appurtenances and the land occupied thereby or enjoyed therewith, or upon or in respect of which the work or service is performed, or upon which the materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner, and the placing or furnishing of the materials to be used upon the land or such other place in the immediate vicinity of the land designated by the owner or his agent is good and sufficient delivery for the purpose of this Act, but delivery on the designated land does not make such land subject to a lien. General right to a lien

(2) The lien given by subsection 1 attaches to the land as therein set out where the materials delivered to be used are incorporated into the buildings, erections or structures on the land, notwithstanding that the materials may not have been delivered in strict accordance with subsection 1. R.S.O. 1950, c. 227, s. 5. Lien attaches where materials incorporated into building

(3) For the purposes of subsection 1, "agent" shall be deemed to include the contractor or subcontractor for whom the materials are placed or furnished, unless the person placing or furnishing the materials has had actual notice from the owner to the contrary. 1952, c. 54, s. 2. Interpretation

When husband's interest liable for work done or materials furnished on land of married woman

**6.** Where work is done or services are performed or materials are furnished to be used upon or in respect of the land of a married woman or in which she has any interest or an inchoate right of dower, with the privity and consent of her husband he shall be presumed conclusively to be acting as her agent as well as for himself for the purposes of this Act unless before doing the work or performing the services or furnishing the materials the person doing, performing or furnishing the same has had actual notice to the contrary. R.S.O. 1950, c. 227, s. 6.

Where estate charged is leasehold

**7.**—(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple is also subject to the lien, provided the person doing the work or supplying the material gives notice in writing, by personal service, referring to the section, to the owner or his agent of the work to be done or material to be furnished, unless the owner or his agent within ten days thereafter gives notice to such person that he will not be responsible therefor. R.S.O. 1950, c. 227, s. 7 (1); 1958, c. 57, s. 1.

Forfeiture or cancellation of lease, effect of on lienholder

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord or cancellation or attempted cancellation of the lease except for non-payment of rent deprives any person otherwise entitled to a lien under this Act of the benefit of the lien provided that the person entitled to the lien may pay any rent accruing after he becomes so entitled and the amount so paid may be added to his claim.

Prior mortgages

(3) Where the land and premises upon or in respect of which any work or service is performed or materials are furnished to be used is encumbered by a prior mortgage or other charge existing in fact before any lien arises, the mortgage or other charge has priority over all liens under this Act to the extent of the actual value of the land and premises at the time the first lien arose, such value to be ascertained by the judge or officer having jurisdiction to try the action by proper evidence to be adduced before him.

Where first lien arose

(4) The time at which the first lien arose shall be deemed to be the time at which the first work or service is performed or first materials furnished, irrespective of whether a claim for lien in respect thereof is registered or enforced, and whether or not such lien is before the court.

Future advances

(5) Any mortgage existing as a valid security, notwithstanding that it is a prior mortgage within the meaning of subsection 3, may also secure future advances, subject to subsection 1 of section 13.

Agreement for purchase

(6) Where there is an agreement for the purchase of land and the purchase money or a part thereof is unpaid and

no conveyance has been made to the purchaser, he shall for the purposes of this Act be deemed a mortgagor and the seller a mortgagee. R.S.O. 1950, c. 227, s. 7 (2-6).

**8.** Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and is, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection 3 of section 7, subject to the claims of all persons for liens to the same extent as if the money had been realized by a sale of the property in an action to enforce the lien. R.S.O. 1950, c. 227, s. 8. Application of amount of insurance

**9.** Save as herein otherwise provided, the lien does not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1950, c. 227, s. 9. Limit of amount of owner's liability

**10.** Save as herein otherwise provided, where the lien is claimed by any person other than the contractor, the amount that may be claimed in respect thereof is limited to the amount owing to the contractor or subcontractor or other person for whom the work or service has been done or the materials placed or furnished. R.S.O. 1950, c. 227, s. 10. Limit of lien when claimed by other than contractor

**11.—(1)** In all cases, the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done or materials are furnished under the contract, retain for a period of thirty-seven days after the completion or abandonment of the work done or to be done under the contract 20 per cent of the value of the work, service and materials actually done, placed or furnished, as mentioned in section 5, irrespective of whether the contract or subcontract provides for partial payments or payment on completion of the work and the value shall be calculated upon evidence given in that regard on the basis of the contract price or, if there is no specific contract price, on the basis of the actual value of the work, service or materials. R.S.O. 1950, c. 227, s. 11 (1); 1952, c. 54, s. 3 (1). Retention of percentage by owner for 37 days

**(2)** Where the contract price or actual value exceeds \$25,000, the amount to be retained is 15 per cent instead of 20 per cent. R.S.O. 1950, c. 227, s. 11 (2); 1958, c. 57, s. 2. Where contract price exceeds \$25,000

**(3)** In the case of a contract that is under the supervision of an architect, engineer or other person upon whose certificates payments are to be made, where thirty-seven days have Reduction in amount retained



elapsed after a certificate issued by that architect, engineer or other person to the effect that the subcontract has been completed to his satisfaction has been given to the person primarily liable upon that contract and to the person who became a subcontractor by a subcontract made directly under that contract, the amount to be retained by the person primarily liable upon that contract shall be reduced by 15 per cent or 20 per cent, as the case may be, of the subcontract price or, if there is no specific subcontract price, by 15 per cent or 20 per cent, as the case may be, of the actual value of the work, service performed or materials furnished or placed under that subcontract, but this subsection does not operate if and so long as any lien derived under that subcontract is preserved by anything done under this Act. 1952, c. 54, s. 3 (2), *part*; 1957, c. 68, s. 1.

Idem

(4) Where a certificate issued by an architect, engineer or other person to the effect that a subcontract by which a subcontractor became a subcontractor has been completed to the satisfaction of that architect, engineer or other person has been given to that subcontractor, then for the purposes of subsections 1, 2 and 3 of section 21 and section 23 that subcontract and any materials furnished or placed or to be furnished or placed thereunder and any work or services performed or to be performed thereunder shall, so far as concerns any lien thereunder of that subcontractor, be deemed to have been completed or furnished or placed not later than the time at which the certificate was so given. 1952, c. 54, s. 3 (2), *part*.

Effect of  
lien on  
amounts  
retained

(5) The lien is a charge upon the amount directed to be retained by this section in favour of lienholders whose liens are derived under persons to whom the moneys so required to be retained are respectively payable. R.S.O. 1950, c. 227, s. 11 (3).

Payments  
made in  
good faith  
without  
notice of  
lien

(6) All payments up to 80 per cent as fixed by subsection 1 or up to 85 per cent as fixed by subsection 2 and payments permitted as a result of the operation of subsections 3 and 4 made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of the lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, operate as a discharge *pro tanto* of the lien. R.S.O. 1950, c. 227, s. 11 (4); 1952, c. 54, s. 3 (3).

Payment of  
percentage  
and  
discharge  
of liens

(7) Payment of the percentage required to be retained under this section may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the period of thirty-seven days mentioned in subsection 1 unless in the meantime proceedings have been commenced to

enforce any lien or charge against the percentage as provided by sections 22 and 23, in which case the owner may pay the percentage into court in the proceedings and the payment constitutes valid payment in discharge of the owner to the amount thereof. R.S.O. 1950, c. 227, s. 11 (5); 1952, c. 54, s. 3 (4).

(8) Every contract is amended in so far as is necessary to be in conformity with this section. Amendment of contracts

(9) Where the contractor or subcontractor makes default in completing his contract, the percentage shall not, as against any lienholder who by virtue of subsection 5 has a charge thereupon, be applied by the owner, contractor or subcontractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor nor in payment or satisfaction of any claim against the contractor or subcontractor. 1952, c. 54, s. 3 (5). Where percentage not to be applied

**12.—**(1) If an owner, contractor or subcontractor makes a payment to any person entitled to a lien under section 5 for or on account of any debt, justly due to him for work or service done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives written notice of the payment to the person primarily liable, or his agent, the payment shall be deemed to be a payment on his contract generally to the contractor or subcontractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 11. Payments made direct by owner to persons entitled to lien

(2) Every subcontractor is entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or subcontractor under whom he claims. R.S.O. 1950; c. 227, s. 12. Rights of subcontractor

**13.—**(1) The lien has priority over all judgments, executions, assignments, attachments, garnishments, and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien has been given at the address endorsed on such conveyance or mortgage pursuant to section 45 of *The Registry Act* to the person making such payments or after registration of a claim for the lien as hereinafter provided, and in the absence of such notice in writing or the registration of a claim for lien all such payments or advances have priority over any such lien. R.S.O. 1950, c. 227, s. 13 (1); 1955, c. 44, s. 1. Priority of lien R.S.O. 1960, c. 348

Priority  
among  
lienholders

(2) Except where it is otherwise provided by this Act, no person entitled to a lien on any property or money is entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lienholders ranks *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

Mortgage  
given to  
person  
entitled to  
lien void as  
against lien-  
holders

(3) Any conveyance, mortgage or charge of or on land given to any person entitled to a lien thereon under this Act in payment of or as security for any such claim, whether given before or after such lien claim has arisen, shall, as against other parties entitled to liens under this Act, on any such land be deemed to be fraudulent and void. R.S.O. 1950, c. 227, s. 13 (2, 3).

#### PRIORITY OF WAGES

Priority of  
liens for  
wages

**14.—**(1) Every mechanic or labourer whose lien is for wages has priority to the extent of thirty days wages over all other liens derived through the same contractor or subcontractor to the extent of and on the 20 per cent or 15 per cent, as the case may be, directed to be retained by section 11 to which the contractor or subcontractor through whom the lien is derived is entitled and all such mechanics and labourers rank thereon *pari passu*. R.S.O. 1950, c. 227, s. 14 (1).

Enforcing  
lien in  
such cases

(2) Every wage-earner is entitled to enforce a lien in respect of any contract or subcontract not completely fulfilled and, notwithstanding anything to the contrary in this Act, may serve a notice of motion on the proper parties returnable in four days after service thereof before the judge having jurisdiction under this Act, that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany the notice of motion duly verified by affidavit. R.S.O. 1950, c. 227, s. 14 (2); 1960, c. 65, s. 1.

Calculating  
percentage  
when con-  
tract not  
fulfilled

(3) If the contract has not been completed when the lien is claimed by a wage-earner, the percentage shall be calculated on the value of the work done or materials furnished by the contractor or subcontractor by whom the wage-earner is employed having regard to the contract price, if any. R.S.O. 1950, c. 227, s. 14 (3).

Devices to  
defeat  
priority of  
wage-  
earners

(4) Every device by an owner, contractor or subcontractor to defeat the priority given to a wage-earner for his wages and every payment made for the purpose of defeating or impairing a lien is null and void. R.S.O. 1950, c. 227, s. 14 (5)



## MATERIAL

**15.**—(1) Material actually delivered to be used for any of the purposes mentioned in section 5 is subject to a lien for any of the purchase price thereof that is unpaid in favour of the person who furnished it until it is incorporated in the building, erection or work, and it is not during the continuance of such lien subject to execution or other process to enforce any debt other than for the purchase price thereof due to the person furnishing the same. R.S.O. 1950, c. 227, s. 15 (1); 1960, c. 65, s. 2 (1).

Lien for material

(2) During the continuance of a lien, no part of the material affected thereby shall be removed except with the leave of the judge or officer having jurisdiction. 1960, c. 65, s. 2 (2).

Removal of material

## REGISTRATION OF LIEN

**16.**—(1) A claim for a lien (Forms 1, 2 and 3) may be registered in the proper registry office and shall set out,

Registration of claim for lien

- (a) the name and residence of the person claiming the lien and of the owner or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work or service was or is to be done, or materials furnished or placed, and the time within which the same was or was to be done or furnished or placed;
- (b) a short description of the work or service done or to be done, or materials furnished or placed or to be placed or to be furnished or placed;
- (c) the sum claimed as due or to become due;
- (d) a description of the land sufficient for the purpose of registration and where the land is registered under *The Land Titles Act*, also a reference to the number of the parcel of the land and to the register in which such land is registered in the land titles office;
- (e) the date of expiry of the period of credit when credit has been given.

R.S.O. 1960, c. 204

(2) The claim shall be verified in duplicate by the affidavit (Form 4) of the person claiming the lien, or of his agent or assignee, having a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

Verification of claim

(3) When it is desired to register a claim for lien against a railway, it is sufficient description of the land of the railway company to describe it as the land of the railway company

Description of lands where lien registered against railway

and every such claim shall be registered in the general register in the office for the registry division within which the lien is claimed to have arisen. R.S.O. 1950, c. 227, s. 16.

What may  
be included  
in claim

**17.—**(1) A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in section 16.

Apportion-  
ment of  
claims

(2) The judge or officer has jurisdiction equitably to apportion against the respective properties the amounts included in any claim or claims for liens under subsection 1. R.S.O. 1950, c. 227, s. 17.

Informality  
in registering  
liens

**18.—**(1) A substantial compliance with sections 16, 17 and 29 is sufficient and no lien is invalidated by reason of failure to comply with any of the requisites of these sections unless, in the opinion of the judge or officer who tries an action under this Act, the owner, contractor or subcontractor, mortgagee, or other person, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

Registration  
necessary

(2) Nothing in this section dispenses with registration of the claim for lien. R.S.O. 1950, c. 227, s. 18.

Effect of  
registration

**19.—**(1) The registrar, upon payment of the proper fee, shall register the claim, describing it as "Mechanic's Lien" against the land therein described in like manner as if it were a mortgage, and shall certify the registration upon the duplicate, but he shall not copy the claim or affidavit in any registry book, and the duplicates shall be filed in the office of the master or of the clerk of the county or district court of the county or district in which the land is situate on or before the trial of the action.

Fee for  
registration

(2) The fee for registration of a claim for lien is 50 cents, and if several persons join in one claim the registrar is entitled to a further fee of 20 cents for each person after the first. R.S.O. 1950, c. 227, s. 19.

Status of  
lienholder

R.S.O. 1960,  
cc. 348, 204

**20.** Where a claim is so registered, the person entitled to a lien shall be deemed a purchaser *pro tanto* and within the provisions of *The Registry Act* and *The Land Titles Act*, but, except as herein otherwise provided, those Acts do not apply to any lien arising under this Act. R.S.O. 1950, c. 227, s. 20.

Limit of  
time for  
registration

**21.—**(1) A claim for lien by a contractor or subcontractor in cases not otherwise provided for may be registered before or during the performance of the contract or of the subcontract

or within thirty-seven days after the completion or abandonment of the contract or of the subcontract, as the case may be. R.S.O. 1950, c. 227, s. 21 (1); 1952, c. 54, s. 6 (1).

(2) A claim for lien for materials may be registered before <sup>Materials</sup> or during the furnishing or placing thereof, or within thirty-seven days after the furnishing or placing of the last material so furnished or placed. R.S.O. 1950, c. 227, s. 21 (2); 1952, c. 54, s. 6 (2).

(3) A claim for lien for services may be registered at any <sup>Services</sup> time during the performance of the service or within thirty-seven days after the completion of the service. R.S.O. 1950, c. 227, s. 21 (3); 1952, c. 54, s. 6 (3).

(4) A claim for lien for wages may be registered at any time <sup>Wages</sup> during the performance of the work for which the wages are claimed, or within thirty-seven days after the last work is done for which the lien is claimed. R.S.O. 1950, c. 227, s. 21 (4); 1952, c. 54, s. 6 (4).

(5) Every lienholder who does not register a claim for lien <sup>Duty of</sup> and whose lien is preserved by an action commenced by <sup>lienholder</sup> another lienholder shall nevertheless before the day appointed <sup>whose lien</sup> for the trial of the action give written notice of his lien to <sup>is not</sup> the owner or his agent, the mortgagee or his agent and the <sup>registered</sup> lienholder who has commenced action, and deposit with the proper officer of the county or district concerned particulars of his claim verified by affidavit. R.S.O. 1950, c. 227, s. 21 (6).

#### EXPIRY AND DISCHARGE OF LIEN

**22.**—(1) Every lien for which a claim is not registered <sup>Expiry of</sup> absolutely ceases to exist on the expiration of the time herein <sup>liens</sup> before limited for the registration thereof unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under this Act and a certificate thereof is registered in the registry office in which the claim for lien might have been registered. R.S.O. 1950, c. 227, s. 22 (1).

(2) Where a certificate of action has been registered for <sup>Vacating</sup> two years or more in the registry office and no appointment <sup>orders</sup> has been taken out for the trial of the action, any interested party may apply *ex parte* to a judge who has jurisdiction to try the action or, in the County of York, the master, who may make an order vacating the certificate of action and discharging all liens depending thereon. R.S.O. 1950, c. 227, s. 22 (2); 1960, c. 65, s. 3.

**23.** Every lien for which a claim has been registered abso- <sup>When lien</sup> lutely ceases to exist on the expiration of ninety days after <sup>to cease</sup> the work or service has been completed or materials have <sup>if registered</sup> <sup>and not</sup> <sup>proceeded</sup> <sup>upon</sup>



been furnished or placed, or after the expiry of the period of credit, where such period is mentioned in the claim for lien registered, unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under this Act, and a certificate is registered as provided by section 22. R.S.O. 1950, c. 227, s. 23; 1958, c. 57, s. 4.

Assignment  
or death of  
lienholder

**24.** The right of a lienholder may be assigned by an instrument in writing and, if not assigned, upon his death passes to his personal representative. R.S.O. 1950, c. 227, s. 24.

Discharge  
of lien

**25.—(1)** A lien may be discharged by the registration of a receipt acknowledging payment,

(a) where made by a claimant other than a corporation, signed by the claimant or his agent duly authorized in writing and verified by affidavit;

(b) where made by a corporation, bearing its corporate seal. 1958, c. 57, s. 5 (1).

Registration  
of receipt

(2) The receipt shall be numbered and entered like other instruments, but shall not be copied in any registry book, and there shall be entered against the entry of the lien to which the discharge relates the word "discharged" and the registration number of the discharge.

Fee

(3) The fee is the same as for registering a claim. R.S.O. 1950, c. 227, s. 25 (2, 3).

Security or  
payment  
into court  
and vacating  
lien and  
certificate  
of action

(4) Upon application, the judge having jurisdiction to try an action or, in the County of York, the master may,

(a) allow security for or payment into court of the amount of the claim and such costs as the judge or officer may fix, and thereupon order that the registration of the lien and registration of the certificate of action, if any, be vacated; or

(b) order that the registration of the lien and the registration of the certificate of action, if any, be vacated upon any other proper ground. R.S.O. 1950, c. 227, s. 25 (4); 1960, c. 65, s. 4.

Effect of  
order under  
subs. 4, cl. a

(5) Notwithstanding sections 22 and 23, where an order to vacate the registration of a lien is made under clause a of subsection 4, the lien does not cease to exist for the reason that no certificate of action is registered. 1958, c. 57, s. 5 (2).

Money paid  
into court

(6) Any money so paid into court, or any bond or other security for securing the like amount and satisfactory to the judge or officer having jurisdiction, takes the place of the property discharged and is subject to the claims of every

person who has at the time of the application registered his claim for lien or given notice of the claim under subsection 6 of section 11 or section 13 to the same extent as if the money, bond or other security was realized by a sale of the property in an action to enforce the lien, provided that such amount as the judge or officer finds to be owing to the person whose lien has been so vacated is a first charge upon the money, bond or other security.

(7) Where the certificate required by section 22 or 23 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate, the order vacating the lien may be made *ex parte* upon production of the certificate of the proper registrar certifying the facts entitling the applicant to such order. R.S.O. 1950, c. 227, s. 25 (5, 6).

When notice of application to vacate not requisite

#### EFFECT OF TAKING SECURITY OR EXTENDING TIME

**26.**—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, does not merge, waive, pay, satisfy, prejudice or destroy the lien unless the claimant agrees in writing that it has that effect.

Effect generally

(2) Where any such promissory note or bill of exchange has been negotiated, the lienholder does not thereby lose his lien, if, at the time of bringing his action to enforce it, or where an action is brought by another lienholder, he is, at the time of proving his claim in the action, the holder of such promissory note or bill of exchange.

When period of credit not expired

(3) Nothing in subsection 2 extends the time limited by this Act for bringing the action to enforce the lien.

Time for bringing action not extended

(4) A person who has extended the time for payment of a claim for which he has a lien to obtain the benefit of this section shall commence an action to enforce the lien within the time prescribed by this Act, and shall register a certificate as required by sections 22 and 23, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1950, c. 227, s. 26.

Time for bringing action by person who gave time for payment

**27.** Where the period of credit in respect of a claim has not expired, or where there has been an extension of time, for payment of the claim, the lienholder may nevertheless, if an action is commenced by any other person to enforce a lien

Proving claim in action by another lienholder

against the same property, prove and obtain payment of his claim in the action as if the period of credit or the extended time had expired. R.S.O. 1950, c. 227, s. 27.

#### LIENHOLDER'S RIGHTS TO INFORMATION

Production  
of contract  
or agree-  
ment

**28.—(1)** Any lienholder may, in writing, at any time demand of the owner or his agent the production, for inspection, of the contract or agreement with the contractor for or in respect of which the work, service or material is or is to be performed or furnished or placed, if the contract or agreement is in writing or if not in writing, the terms of the contract or agreement and the state of the accounts between the owner and the contractor, and if the owner or his agent does not at the time of the demand, or within a reasonable time thereafter, produce the contract or agreement if in writing or, if not in writing, does not inform the person making the demand of the terms of the contract or agreement and the amount due and unpaid upon the contract or agreement or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon and if the person claiming the lien sustains loss by reason of the refusal or neglect or false statement, the owner is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 35 applies.

Statement  
of mort-  
gagee or  
unpaid  
vendor

**(2)** Any lienholder may in writing at any time demand of a mortgagee or unpaid vendor or his agent the terms of any mortgage on the land or of any agreement for the purchase of the land in respect of which the work, service or material is or is to be performed, furnished or placed and a statement showing the amount advanced on the mortgage or the amount owing on the agreement, as the case may be, and if the mortgagee or vendor or his agent fails to inform the lienholder at the time of the demand or within a reasonable time thereafter of the terms of the mortgage or agreement and the amount advanced or owing thereon or if he knowingly falsely states the terms of the mortgage or agreement and the amount owing thereon and the lienholder sustains loss by the refusal or neglect or misstatement, the mortgagee or vendor is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 35 applies. R.S.O. 1950, c. 227, s. 28 (1, 2).

Production  
of contract  
or agree-  
ment

**(3)** The judge having jurisdiction to try an action or, in the County of York, the master may, on a summary application at any time before or after any action is commenced for the enforcement of the lien, make an order requiring the owner or



his agent or the mortgagee or his agent or unpaid vendor or his agent, as the case may be, to produce and allow any lienholder to inspect any such contract or agreement or mortgage or agreement for sale upon such terms as to costs as he may deem just. R.S.O. 1950, c. 227, s. 28 (3); 1960, c. 65, s. 5.

#### ACTION TO REALIZE CLAIM

**29.**—(1) A lien shall be enforced in the Supreme Court in an action to be commenced by filing in the office of the local registrar of the Supreme Court in the county or district in which the land or part thereof is situate a statement of claim. <sup>Mode of realizing lien</sup> R.S.O. 1950, c. 227, s. 29 (1); 1953, c. 61, s. 1; 1958, c. 57, s. 6.

(2) The statement of claim shall be served within one month after it is filed, but a judge having jurisdiction to try the action or, in the County of York, the master may extend the time for service thereof, and the time for delivering the statement of defence shall be the same as for entering an appearance in an action in the Supreme Court. <sup>Service</sup> R.S.O. 1950, c. 227, s. 29 (2); 1960, c. 65, s. 6 (1).

(3) It is not necessary to make any lienholders parties defendant to the action, but all lienholders served with the notice of trial shall for all purposes be deemed parties to the action. <sup>Parties</sup> R.S.O. 1950, c. 227, s. 29 (3).

(4) After the commencement of any action under this Act, any lienholder or other person interested may move before the judge having jurisdiction to try the action or, in the County of York, a judge of the Supreme Court to speed the trial of the action. <sup>Motion to speed trial</sup> R.S.O. 1950, c. 227, s. 29 (4); 1960, c. 65, s. 6 (2).

**30.** Any number of lienholders claiming liens on the same land may join in an action and an action brought by a lienholder shall be deemed to be brought on behalf of himself and all other lienholders. <sup>Lienholders joining in action</sup> R.S.O. 1950, c. 227, s. 30.

**31.**—(1) The action shall be tried in the county or district in which the land or part thereof is situate. <sup>Place of trial</sup>

(2) Except in the County of York, the action shall be tried by a local judge of the Supreme Court, but, upon the application of any party or other interested person made according to the practice of the Supreme Court and upon notice, the court may direct that the action be tried by a judge of the Supreme Court at the regular sittings of the court for the trial of actions in the county or district in which the land or part thereof is situate. <sup>Tribunal</sup>

(3) In the County of York, the action shall be tried by a judge of the Supreme Court, but, <sup>Idem, York County</sup>

R.S.O. 1960,  
c. 197

- (a) on motion after defence or defence to counterclaim, if any, has been delivered or the time for such delivery has expired, a judge of the Supreme Court may refer (Form 7) the whole action to the master for trial pursuant to section 69 of *The Judicature Act*; or
- (b) at the trial, a judge of the Supreme Court may direct a reference to the master pursuant to section 68 or 69 of *The Judicature Act*.

Application  
to set aside  
judgment  
directing a  
reference

(4) Where on motion the whole action is referred to the master for trial, any person brought into the proceedings subsequent thereto and served with a notice of trial may apply to a judge of the Supreme Court to set aside the judgment directing the reference within seven days after service of notice of trial and, if such person fails to make such application, he is bound by such judgment as if he were originally a party thereto.

Amend-  
ment of  
pleadings  
on reference

(5) Where the action is referred to the master for trial, he may grant leave to amend any pleading. 1960, c. 65, s. 7.

Powers of  
local  
judges  
S.C.O., etc.

**32.**—(1) The local judges of the Supreme Court and the master to whom a reference for trial has been directed, in addition to their ordinary powers, have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and questions arising therein and all questions of set-off and counterclaim arising under the building contract or out of the work or service done or materials furnished to the property in question. 1960, c. 65, s. 8 (1).

Where con-  
tract covers  
several  
buildings

(2) Where an owner enters into an entire contract for the supply of material to be used in several buildings, the person supplying the material may ask to have his lien follow the form of the contract and that it be for an entire sum upon all the buildings, but in case the owner has sold one or more of the buildings, the judge or officer has jurisdiction equitably to apportion against the respective buildings the amount included in the claim for lien under the entire contract. R.S.O. 1950, c. 227, s. 32 (2).

Power to  
appoint a  
receiver of  
rents and  
profits

(3) At any time after the delivery of the statement of claim, the judge having jurisdiction to try the action or, in the County of York, a judge of the Supreme Court may, on the application of any lien claimant, mortgagee or other party interested, appoint a receiver of the rents and profits of the property against which the claim of lien is registered, upon such terms and upon the giving of such security or without security as to the judge may seem just. R.S.O. 1950, c. 227, s. 32 (3); 1960, c. 65, s. 8 (2).

(4) At any time after the delivery of the statement of claim, any lien claimant, mortgagee or other party interested may make an application to a judge having jurisdiction to try the action or, in the County of York, to a judge of the Supreme Court, who may hear *viva voce* or affidavit evidence or both and who has power to appoint, upon such terms and upon the giving of such security or without security as the judge deems best, a trustee or trustees with power to manage and sell or manage or sell the property upon which the lien is filed, and such management and sale or management or sale shall be under the supervision and direction of the court, and such sale shall require the approbation of the court, and with power, when so directed by the court, to complete or partially complete the property and in the event that mortgage moneys are advanced to the trustee or trustees as the result of any of the powers conferred upon him or them under this subsection, such moneys take priority over all liens existing as of the date of the appointment. 1952, c. 54, s. 8 (1); 1960, c. 65, s. 8 (3).

(5) Any property directed to be sold under this section may be offered for sale subject to any mortgage or other charge or encumbrance if the judge or officer so directs, but only in cases where there is no dispute whatever as to the priority of any such mortgage. R.S.O. 1950, c. 227, s. 32 (6); 1960, c. 65, s. 8 (4).

(6) The proceeds of any sale made by a trustee under subsection 4 shall be paid into court and are subject to the claims of all lienholders, mortgagees or other parties interested in the property so sold as their respective rights may be determined, and, in so far as applicable, section 36 applies. R.S.O. 1950, c. 227, s. 32 (7); 1957, c. 68, s. 2.

(7) The judge or officer shall make all necessary orders for the completion of the sale for the vesting of the property in the purchaser and for possession. R.S.O. 1950, c. 227, s. 32 (8); 1952, c. 54, s. 8 (3); 1960, c. 65, s. 8 (5).

(8) Any such vesting order so made of property so sold by a trustee appointed as aforesaid vests the title of the property free from all lienholders' claims, encumbrances and interests of any kind including dower, except in cases where sale is made subject to any mortgage, charge, encumbrance or interest as hereinbefore provided, but nothing in this section or in this Act shall be deemed to extinguish the right to dower, if any, of any married woman or the right to have the value of the same ascertained and deducted from the proceeds of the same so paid into court. R.S.O. 1950, c. 227, s. 32 (9).

**33.** Where more actions than one are brought to realize liens in respect of the same land, a judge having jurisdiction

Power to  
direct  
sale and  
appoint  
trustee

Property  
offered for  
sale

Proceeds  
to be paid  
into court

Orders for  
completion  
of sale

Vesting  
of title

Consolidation  
of  
actions



to try such actions or, in the County of York, the master may, on the application of any party to any one of the actions, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff as he may see fit. R.S.O. 1950, c. 227, s. 33; 1960, c. 65, s. 9.

Transferring  
carriage of  
proceedings

**34.** Any lienholder entitled to the benefit of an action may apply for the carriage of the proceedings, and the judge or officer may make an order giving such lienholder the carriage of the proceedings. R.S.O. 1950, c. 227, s. 34.

Appointing  
day for  
trial

**35.—(1)** After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases and except where the trial is to take place before a judge of the Supreme Court under subsection 2 of section 31, either party may apply *ex parte* to a judge or officer who has jurisdiction to try the action to fix a day for the trial thereof, and the judge or officer shall appoint the time and place of trial.

Notice of  
trial and  
service of

(2) The party obtaining an appointment for the trial shall, at least ten clear days before the day appointed, serve notice of trial (Form 5) upon the solicitors for the defendants who appear by solicitors and upon defendants who appear in person, and on all lienholders who have registered their claims as required by this Act or of whose claims he has notice, and on all other persons having any charge, encumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the judge or officer who may direct in what manner the notice of trial may be served.

Idem

(3) Where any person interested in the land has been served with a statement of claim and makes default in delivering a statement of defence, he shall nevertheless be served with notice of trial and is entitled to defend on such terms as to costs and otherwise as the judge or officer trying the action may deem just. R.S.O. 1950, c. 227, s. 35 (1-3).

Trial

(4) The judge or, where a reference for trial is directed, the master,

(a) shall try the action and all questions that arise therein or that are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom notice of trial has been served;

(b) shall take all accounts, make all inquiries, give all directions and do all other things necessary to finally

dispose of the action and of all matters, questions and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial; and

(c) shall embody the results of the trial,

(i) in the case of a judge, in a judgment (Form 6),  
and

(ii) in the case of the master, in a report (Form 8),

which judgment or report may direct payment forthwith by the person or persons primarily liable to pay the amount of the claims and costs as ascertained by the judgment or report, and execution may be issued therefor forthwith in the case of a judgment and, after confirmation thereof, in the case of a report. 1960, c. 65, s. 10 (1).

(5) The form of the judgment or report may be varied by the judge or officer in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he may be entitled. R.S.O. 1950, c. 227, s. 35 (5); 1960, c. 65, s. 10 (2). Power to vary form of judgment

(6) The judge or officer may order that the estate or interest charged with the lien may be sold and may direct the sale to take place at any time after judgment or confirmation of the report, allowing, however, a reasonable time for advertising the sale. R.S.O. 1950, c. 65, s. 35 (6); 1960, c. 65, s. 10 (3). Sale

(7) A lienholder who has not proved his claim at the trial, on application to the judge or officer before whom the action or reference was tried, may be let in to prove his claim on such terms as to costs and otherwise as may be deemed just at any time before the amount realized in the action for the satisfaction of liens has been distributed, and where his claim is allowed the judgment or report shall be amended so as to include his claim. R.S.O. 1950, c. 227, s. 35 (7); 1960, c. 65, s. 10 (4). Letting in lienholders who have not proved their claims at trial

(8) Every lienholder for an amount not exceeding \$200 may be represented by an agent who is not a solicitor. R.S.O. 1950, c. 227, s. 35 (8); 1958, c. 57, s. 7. Right of lienholders to representation

(9) An action may be tried by any officer having jurisdiction to try the action notwithstanding that the time and place for the trial thereof were appointed and fixed by another officer having jurisdiction. R.S.O. 1950, c. 227, s. 35 (9); 1960, c. 65, s. 10 (5). Trial of action

Report  
where sale  
is had

**36.**—(1) Where a sale is had, the moneys arising therefrom shall be paid into court to the credit of the action and the judge or officer shall direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the action his fees and actual disbursements incurred in connection with the sale, and where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the amount of the deficiency and the names of the persons who are entitled to recover the same, showing the amount that each is entitled to recover and the persons adjudged to pay the same, giving credit for payments made, if any, under subsection 4 of section 35, and the persons so entitled may enforce payment of the amounts so found to be due by execution or otherwise. R.S.O. 1950, c. 227, s. 36 (1); 1958, c. 57, s. 8.

Completion  
of sale

(2) The judge or officer may make all necessary orders for the completion of the sale and for vesting the property in the purchaser.

Where  
lien not  
established

(3) Where a claimant fails to establish a valid lien, he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1950, c. 227, s. 36 (2, 3).

Right of  
lienholders  
whose claims  
are not  
payable to  
share in  
proceeds

**37.** Where property subject to a lien is sold in an action to enforce a lien, every lienholder is entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. R.S.O. 1950, c. 227, s. 37.

Payment of  
money out  
of court

**38.**—(1) Where money has been paid into court and the time for the payment out has arrived, the judge or officer shall forward a certified copy of his judgment or report and of the report on sale, if any, to the accountant of the Supreme Court, whereupon the cheques shall be delivered by the accountant to the persons entitled, or their solicitors, in accordance with the usual practice of the accountant's office. R.S.O. 1950, c. 227, s. 38 (1); 1960, c. 65, s. 11.

Fees

(2) No fees or stamps are payable on any cheques or on proceedings to pay money into court or to obtain money out of court, in respect of a claim for lien, but sufficient postage stamps to repay a return registered letter shall be enclosed with every requisition for cheques. R.S.O. 1950, c. 227, s. 38 (2).

Stated case

**39.**—(1) If in the course of proceedings to enforce a lien a question of law arises, the judge or officer trying the case may,



at the request of any party, state the question in the form of a stated case for the opinion of the court, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down upon all parties concerned.

(2) The stated case shall set forth the facts material for the determination of the question raised and all papers necessary for the hearing of the appeal shall be transmitted to the registrar of the Court of Appeal. Trans-  
mission of  
papers R.S.O. 1950, c. 227, s. 39.

#### APPEAL

**40.**—(1) A judgment in respect of a claim or counterclaim for an amount not exceeding \$200 is final and without appeal. Judgment  
to be final 1958, c. 57, s. 9 (1).

(2) Where a question is referred to the master for inquiry and report under subsection 3 of section 31, an appeal lies in the manner prescribed by the rules of court. Appeal from  
reference

(3) Where an action is referred to the master for trial under subsection 3 of section 31, the report shall be filed and shall be deemed to be confirmed at the expiration of fifteen days from the date of service of notice of filing the same, unless notice of appeal is served within that time. Confirmation  
of  
master's  
report

(4) An appeal from a judgment or report made on a reference for trial lies in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury. Appeal  
from  
judgment  
or report

(5) The costs of the appeal shall not be governed by section 42 or 43, but, subject to any order of the court, shall be upon the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court, and, where it exceeds that amount, upon the Supreme Court scale. 1960, c. 65, s. 13. Costs of  
appeal

#### FEEES AND COSTS

**41.** The fee payable in any action to realize a lien under this Act is, Fee

- (a) \$5 on a claim or counterclaim not exceeding \$500;
- (b) \$10 on a claim or counterclaim exceeding \$500 but not exceeding \$1,000;
- (c) \$10 on a claim or counterclaim exceeding \$1,000 plus \$1 for every \$1,000 or a fraction thereof in excess of \$1,000,

but no fee is payable on a claim for wages only, and in no case shall the fee on a claim exceed \$75 or on a counterclaim exceed \$25. 1958, c. 57, s. 10.

Limit of  
costs to  
plaintiffs

**42.** The costs of the action, exclusive of actual disbursements awarded to the plaintiffs and successful lienholders, shall not exceed in the aggregate 25 per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct, but in making the apportionment he shall have regard to the actual services rendered by or on behalf of the parties respectively, provided that where a counterclaim is set up by a defendant the amount and apportionment of the costs in respect thereof are in the discretion of the judge or officer trying. R.S.O. 1950, c. 227, s. 42.

Limit of  
costs against  
plaintiffs

**43.** Where costs are awarded against the plaintiff or other persons claiming liens, they shall not exceed, except in the case of a counterclaim, 25 per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer may direct. R.S.O. 1950, c. 227, s. 43.

Costs where  
least expen-  
sive course  
not taken

**44.** Where the least expensive course is not taken by a plaintiff, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1950, c. 227, s. 44.

Costs of  
drawing and  
registering  
and vacating  
registration  
of lien

**45.** Where a lien is discharged or vacated under section 25, or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof, but this does not apply where the claimant fails to establish a valid lien. R.S.O. 1950, c. 227, s. 45.

Costs not  
otherwise  
provided for

**46.** Except as otherwise herein provided, all costs of and incidental to all applications and orders are in the discretion of the judge or officer. R.S.O. 1950, c. 227, s. 46.

#### RULES OF PROCEDURE

Rules of  
procedure

**47.—(1)** The object of this Act being to enforce liens at the least expense, the procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question.

(2) No interlocutory proceedings shall be permitted, except such as are provided by this Act, without the consent of the judge or officer having jurisdiction, and then only upon proper proof that such proceedings are necessary. Interlocutory proceedings, when allowed

(3) The judge or officer trying may obtain the assistance of merchants, accountants, actuaries, building contractors, architects, engineers or other scientific persons in such way as he deems fit, the better to enable him to determine any matter of fact in question, and may fix the remuneration of such persons and direct payment thereof by any of the parties. Assistance of experts  
R.S.O. 1950, c. 227, s. 47.

#### LIENS ON CHATTELS

**48.**—(1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration or improvement of its properties, or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon the chattel or thing for the amount or value of the money or skill and materials bestowed has, while the lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, the right in addition to any other remedy to which he may be entitled to sell by auction the chattel or thing, on giving one week's notice by advertisement in a newspaper published in the municipality in which the work was done, or in case there is no newspaper published in the municipality then in the newspaper published nearest thereto, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of the municipality. Right of mechanics entitled to lien on a chattel to sell chattel

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. Application of proceeds of sale  
R.S.O. 1950, c. 227, s. 48.



## FORM 1

(Sections 16-21)

## CLAIM FOR LIEN

A.B. (name of claimant) of (here state residence of claimant), (if claimant is a personal representative or assignee set out the facts) under The Mechanics' Lien Act claims a lien upon the estate of (here state the name and residence of owner of the land upon which the lien is claimed), in the undermentioned land in respect of the following work (or service or materials) that is to say (here give a short description of the nature of the work done or to be done, or materials furnished or to be furnished, and for which the lien is claimed) which work (or service) was (or is to be) done (or materials were or are to be furnished) for (here state name and residence of the person upon whose request the work is done or to be done, or the materials furnished or to be furnished) on or before the ..... day of ....., 19.....

The amount claimed as due (or to become due) is \$.....

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Where credit has been given, insert: The work was done (or materials were furnished) on credit, and the period of credit agreed to expired (or will expire) on the ..... day of ....., 19.....

Dated at ..... this ..... day of ....., 19.....

(Signature of claimant)

R.S.O. 1950, c. 227, Form 1.

## FORM 2

(Sections 16-21)

## CLAIM FOR LIEN FOR WAGES

A.B. (name of claimant) of (here state residence of claimant), (if claimant is a personal representative or assignee set out the facts) under The Mechanics' Lien Act claims a lien upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed), in the undermentioned land in respect of work performed (or to be performed) thereon while in the employment of (here state the name and residence of the person upon whose request the work was or is to be performed) on or before the ..... day of ....., 19.....

The amount claimed as due (or to become due) is \$.....

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Dated at ..... this ..... day of ....., 19.....

(Signature of claimant)

R.S.O. 1950, c. 227, Form 2.

FORM 3

(Sections 16-21)

CLAIM FOR LIEN FOR WAGES BY SEVERAL CLAIMANTS

The following persons claim a lien under *The Mechanics' Lien Act* upon the estate of (*here state the name and residence of the owner of land upon which the lien is claimed*) in the undermentioned land in respect of wages for labour performed (*or to be performed*) thereon while in the employment of (*here state name and residence or names and residences of employers of the several persons claiming the lien*).

A.B. of (residence)	\$.....	for wages.
C.D. of       "	\$.....	" "
E.F. of       "	\$.....	" "

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at ..... this ..... day of ....., 19.....

(Signatures of several claimants)

R.S.O. 1950, c. 227, Form 3.

FORM 4

(Sections 16-21)

AFFIDAVIT VERIFYING CLAIM

I, A.B., named in the above (*or annexed*) claim, make oath that the claim is true.

*Or*, We, A.B. and C.D., named in the above (*or annexed*) claim, make oath and each for himself makes oath that the claim, so far as relates to him, is true.

*Where affidavit is made by agent or assignee a clause must be added to the following effect:—*I have full knowledge of the facts set forth in the above (*or annexed*) claim.

Sworn before me at ....., in the  
County of ....., this .....day  
of ....., 19.....

*Or*, The said A.B. and C.D. were severally  
sworn before me at ....., in the  
County of ....., this ..... day  
of ....., 19.....

R.S.O. 1950, c. 227, Form 4.

## FORM 5

(Section 35)

## NOTICE OF TRIAL

*(Style of Court and Cause)*

TAKE NOTICE that this action will be tried at the .....  
in the ..... of ....., in the County  
(or District) of ..... on the .....  
day of .....  
by ..... and at such time and place the .....  
..... will proceed to try the action and all questions as  
provided by *The Mechanics' Lien Act*.

And further take notice that if you do not appear at the trial and defend  
the action or prove your claim, if any, the proceedings will be taken in  
your absence and you may be deprived of all benefit of the proceedings  
and your rights disposed of in your absence.

And further take notice that all parties and lien claimants shall bring  
with them on the day herein set for trial all mortgages, contracts, agree-  
ments, orders, cheques, notes, delivery slips, time-books, books of account,  
diaries, duplicate original liens, and any other books or papers necessary  
to prove liens or defences. If any person fails to comply with these  
directions, the costs of the day may be given against him in the event that  
an adjournment is necessary for the production of any of the above-  
mentioned documentary evidence.

This is a Mechanics' Lien action brought by the above-named plaintiffs  
against the above-named defendants to enforce a Mechanics' Lien against  
the following lands: *(set out description of lands)*.

This notice is served by, etc.

Dated ....., 19.....

To .....

R.S.O. 1950, c. 227, Form 6.



## FORM 6

(Section 35)

## JUDGMENT

(Style of Court and Cause)

This action coming on for trial before ..... at ..... upon opening of the matter and it appearing that the following persons have been duly served with notice of trial herein (*set out names of all persons served with notice of trial*) and all such persons (*or as the case may be*) appearing at the trial (*or* and the following persons not having appeared *set out names of non-appearing persons*) and upon hearing the evidence adduced and what was alleged by counsel for the plaintiff and for *C.D.* and *E.F.* and the defendant (*or* and by *A.B.* appearing in person).

1. This Court doth declare that the plaintiff and the several persons mentioned in Schedule 1 hereto are respectively entitled to a lien under *The Mechanics' Lien Act* upon the land described in Schedule 2 hereto for the amounts set opposite their respective names in the 2nd, 3rd and 4th columns of Schedule 1, and the persons primarily liable for the claims respectively are set forth in the 5th column of Schedule 1.

2. (And this Court doth further declare that the several persons mentioned in Schedule 3 hereto are also entitled to some lien, charge or encumbrance upon such land for the amounts set opposite their respective names in the 4th column of Schedule 3, *according to the facts.*)

3. And this Court doth further order and adjudge that upon the defendant (*A.B.*, the owner) paying into Court to the credit of this action the sum of ..... (*gross amount of liens in Schedules 1 and 3 for which owner is liable*) on or before the ..... day of ..... next, that the liens mentioned in Schedule 1 be and the same are hereby discharged (and the several persons in Schedule 3 are to release and discharge their claims and assign and convey the said premises to the defendant (*owner*) and deliver up all documents on oath to the defendant (*owner*) or to whom he may appoint) and the money so paid into Court is to be paid out in payment of the claims of the lienholders (*or* and encumbrancers).

4. In case the defendant (*owner*) makes default in payment of the money into Court this Court doth order and adjudge that such land be sold with the approbation of the Master of this Court at ..... and that the purchase money be paid into Court to the credit of this action.

5. And this Court doth order and adjudge that such purchase money be applied in or towards payment of the several claims mentioned in Schedule(s) 1 (and 3) as the Master shall direct, with subsequent interest and subsequent costs to be computed and taxed by the Master.

6. And this Court doth further order and adjudge that in case such purchase money is insufficient to pay in full the claims of the several persons mentioned in Schedule 1, the persons primarily liable for such claim as shown in Schedule 1 do pay to the persons to whom they are respectively primarily liable the amount remaining due to such persons forthwith after the same has been ascertained by the Master.

7. (And this Court doth declare that ..... have not proved any lien under *The Mechanics' Lien Act* and that they are not entitled to any such lien, and this Court doth order and adjudge that the claims of liens registered by them against the land mentioned in Schedule 2 be and the same are hereby discharged, *according to the fact.*)

Schedule 1

Names of lien-holders entitled to mechanics' liens	Amount of debt and interest (if any)	Costs	Total	Names of primary debtors

(Signature of officer)

\_\_\_\_\_

Schedule 2

The lands in question in this matter are.....

(Set out a description sufficient for registration purposes).

(Signature of officer)

\_\_\_\_\_

Schedule 3

Names of persons entitled to encumbrances other than mechanics' liens	Amount of debt and interest (if any)	Costs	Total

(Signature of officer)

## FORM 7

(Section 31 (3))

## JUDGMENT DIRECTING A REFERENCE FOR TRIAL

1. Upon the application of the plaintiff made pursuant to the provisions of subsection 3 of section 31 of *The Mechanics' Lien Act*, in the presence of counsel for the plaintiff, and the defendants, and upon reading the pleadings in this action and upon hearing what was alleged by counsel aforesaid, and (*the parties by their counsel consenting thereto, or as the case may be*).

2. THIS COURT DOTH ORDER AND ADJUDGE that this action be and the same is referred to the Master at Toronto for trial.

3. AND THIS COURT DOTH FURTHER ORDER AND ADJUDGE that the parties do recover the respective amounts found due by the Master from the parties found liable by the Master forthwith after confirmation of the report of the Master.

4. AND THIS COURT DOTH FURTHER ORDER AND ADJUDGE that the Master do determine all questions arising in this action and on the reference, and that the findings of the Master respecting the matters so referred be effective upon the confirmation of the Master's report.

5. AND THIS COURT DOTH FURTHER ORDER that the Master do determine the question of costs in this action and of the reference, and that the costs be taxed and paid as the Master shall direct.

1960, c. 65, s. 14, *part.*



## FORM 8

(Section 35 (4))

## REPORT

(Style of Cause)

Pursuant to the judgment of reference herein dated..... and it appearing that the following persons have been duly served with notice of trial herein (*set out names of all persons served with notice of trial*) I was attended by counsel for the plaintiff and for..... no one appearing for..... although duly notified as aforesaid (*or as the case may be*) and upon hearing the evidence adduced and what was alleged by counsel for the plaintiff and for C.D. and E.F. and the defendant (*or and by A.B. appearing in person*).

1. I find that the plaintiff and the several persons mentioned in Schedule 1 hereto are respectively entitled to a lien under *The Mechanics' Lien Act* upon the land described in Schedule 2 hereto for the amounts set opposite their respective names in the second, third and fourth columns of Schedule 1, and the persons primarily liable for the claims respectively are set forth in the fifth column of Schedule 1.

2. (And I find that the several persons mentioned in Schedule 3 hereto are also entitled to some lien, charge or encumbrance upon the land for the amounts set opposite their respective names in the fourth column of Schedule 3, *according to the facts*.)

3. And I direct that upon the defendant (A.B., the owner) paying into Court to the credit of this action the sum of \$..... (*gross amount of liens in Schedules 1 and 3 for which owner is liable*) on or before the ..... day of ..... next, that the liens in Schedule 1 mentioned be and the same are hereby discharged (and the several persons in Schedule 3 are to release and discharge their claims and assign and convey the premises to the defendant (*owner*) and deliver up all documents on oath to the defendant (*owner*) or to whom he may appoint) and the money so paid into Court is to be paid out in payment of the claims of the lienholders (*or and encumbrancers*).

4. In case the defendant (*owner*) makes default in payment of the money into Court, I direct that the land be sold with the approbation of the Master of this Court at ..... and that the purchase money be paid into Court to the credit of this action.

5. And I direct that the purchase money be applied in or towards payment of the several claims mentioned in Schedule(s) 1 (and 3) as the Master shall direct with subsequent interest and subsequent costs to be computed and taxed by the Master.

6. And I direct that in case the purchase money is insufficient to pay in full the claims of the several persons mentioned in Schedule 1, the persons primarily liable for such claim as shown in Schedule 1 do pay to the persons to whom they are respectively primarily liable the amount remaining due to such persons forthwith after the same shall have been ascertained by the Master.

7. (And I find and declare that ..... have not proved any lien under *The Mechanics' Lien Act* and that they are not entitled to any such lien, and I direct that the claims of liens registered by them against the land mentioned in Schedule 2 be and the same are hereby discharged, *according to the fact*.)

1960, c. 65, s. 14, *part*.

## CHAPTER 234

## The Medical Act

1. The College of Physicians and Surgeons of Ontario, hereinafter called the College, is continued as a body corporate, with power to acquire, hold and dispose of real and personal property for the purposes of this Act. R.S.O. 1950, c. 228, s. 1. College of Physicians and Surgeons continued

2. Every person registered as a legally qualified medical practitioner under any Act heretofore passed or under this Act is a member of the College. R.S.O. 1950, c. 228, s. 2. Members thereof under former Acts

3.—(1) There shall continue to be a council of the College, hereinafter called the Council, to be composed as follows: Council of the College, composition

1. The Minister of Health. Minister of Health
2. One member to be chosen from every university, college or body in Ontario that is authorized to conduct a course or courses in the science and art of medicine and to grant degrees in the same and that is conducting actively such course or courses in medicine at the present time, or from every university, college or body in Ontario that is or may be hereafter authorized and established under the above conditions. Representatives from universities, colleges, etc.
3. Twelve members to be elected in the manner hereinafter provided from amongst and by the registered members of the profession other than those mentioned in paragraphs 1 and 2. R.S.O. 1950, c. 228, s. 3 (1); 1960, c. 66, s. 1 (1). Representatives of profession

(2) No teacher, professor or lecturer of any of the bodies mentioned in subsection 1 shall hold a seat in the Council except as a representative of the body to which he belongs. Restriction

(3) Every member of the Council appointed under subsection 1 shall be a legally qualified medical practitioner resident in Ontario. R.S.O. 1950, c. 228, s. 3 (2, 3). Members to be practitioners

(4) Each of the twelve members to be elected as aforesaid shall be a resident of the territorial division for which he is elected, and any member who, during the term for which he is elected, ceases to reside in the division for which he is elected Residence in division

thereby vacates his office as such member. R.S.O. 1950, c. 228, s. 3 (4); 1960, c. 66, s. 1 (2).

How  
divisions  
to be  
represented

(5) One member shall be elected from each territorial division numbered 1 to 9 inclusive in Schedule A by the registered practitioners of medicine resident in the division and three members shall be elected from territorial division numbered 10 in Schedule A by the registered practitioners of medicine resident in that division.

Manner of  
holding  
election

(6) The manner of holding such election shall, with respect to the time thereof and the taking of votes therefor, be determined by by-law of the Council and, in default of such by-law being passed, the Lieutenant Governor in Council shall prescribe the time and manner of holding such election. 1960, c. 66, s. 1 (3).

Term of  
office

4.—(1) The members of the Council other than the Minister of Health shall be elected or appointed, as the case may be, for a period of four years or until their successors are elected or appointed.

Vacancies

(2) In the event that any member dies, resigns or becomes incapable of acting by reason of mental or physical illness, his seat *ipso facto* becomes vacant.

Declaration  
of vacancy  
to be  
entered upon  
minutes

(3) A declaration of the existence of a vacancy for the reasons mentioned in subsection 2 of this section or subsection 4 of section 3, entered upon the minutes of the Council, is conclusive evidence thereof.

Notice as  
to vacancy

(4) In the event of a vacancy, the registrar shall forthwith notify the body in respect of which the vacancy has occurred and such body has the power to nominate another duly qualified person to fill the vacancy, or if the vacancy occurs in respect of any member elected from a territorial division, the registrar shall forthwith cause a new election to be held in such territorial division and the election shall be conducted in accordance with the by-laws and regulations of the Council.

Powers of  
Council  
during  
vacancy

(5) During any vacancy it is lawful for the Council to exercise all its powers under this Act. R.S.O. 1950, c. 228, s. 4 (1-5).

Notice of  
date of  
nomination

(6) The registrar shall, not more than sixty and not less than forty days before the time for receiving nominations for any quadrennial election under this Act, notify by letter or postcard every registered medical practitioner in Ontario of the date of receiving such nominations, and in case of an election to fill a vacancy the registrar shall, not more than thirty and not less than fifteen days before the time for receiving nominations, notify by letter or postcard every registered



medical practitioner entitled to vote thereat of the date of receiving nominations to fill the vacancy. R.S.O. 1950, c. 228, s. 4 (7).

**5.—**(1) The persons entitled to vote under this Act at any election are all persons who are duly registered practitioners resident in Ontario. R.S.O. 1950, c. 228, s. 5. Persons entitled to vote

(2) A person who is registered only in the "Educational Register" or the "Temporary Register" is not entitled to be nominated or elected as a member of the Council or to vote in any election of members of the Council. 1960, c. 66, s. 3. Persons not entitled to vote, etc.

**6.—**(1) Any member of the College may have his name transferred from one class of voters to any other class on his presenting to the registrar a certificate authorized by the executive committee and duly signed by its chairman testifying that the member so applying to have his name transferred has shown a sufficient knowledge of the system of medicine with which he desires to connect himself to entitle him to be admitted to the class to which he desires to be transferred and on being so admitted he is entitled to vote in that class only. Transfer to different class on voters' list

(2) There is payable to the registrar for such transfer a fee of \$2. Fee on transfer

(3) No member, without the sanction of the Council, is entitled to return to the class from which he has been so transferred, and no member at any time is entitled to vote in more than one class of the voters who, in accordance with the provisions of this Act, vote in the election of the members of the Council. R.S.O. 1950, c. 228, s. 6. Return of voter to former class  
Not to vote in more than one class

**7.** In case of any doubt or dispute as to the legality of the election of any member of the Council, it is lawful for the Council to hold an inquiry and decide who is the legally elected member of the Council, and the person whom they decide to have been elected is the member legally elected, and if the election is found to have been illegal the Council has power to order a new election. R.S.O. 1950, c. 228, s. 7. Disputed elections, how dealt with

**8.—**(1) In case the validity of the election of any member of the Council is contested, the same shall be tried by the judge or junior or acting judge of the county or district court of the county or district in which the person whose election is complained of resides, and the proceedings thereon shall *mutatis mutandis* be the same as nearly as may be as in the case of municipal elections under the provisions of *The Municipal Act* relating to controverted elections, but no security by the complainant is necessary. Controverted elections  
R.S.O. 1960, c. 249

- Who may be relator (2) Any person qualified to vote at the election complained of may be the relator in proceedings under this section.
- Decision final (3) The decision of the judge is final. R.S.O. 1950, c. 228, s. 8.
- Meetings of the Council **9.**—(1) The council may make rules and regulations as to the times and places of meetings of the Council, and the mode of summoning the same, and in the absence of any rule or regulation as to the summoning of meetings the president or vice-president or, in the event of his absence or death, the registrar may summon a meeting to be held at such time and place as to him seems fit, by letter mailed to each member.
- Absence of president (2) In the event of the absence of the president from any meeting, the vice-president or, in his absence, some other member to be chosen from among the members present shall act as chairman.
- Majority (3) All questions shall be decided by the majority of the members present, and eight members form a quorum of the Council.
- Casting vote (4) At all meetings, the chairman, in the case of an equality of votes, has a casting vote in addition to the vote he is entitled to as a member. R.S.O. 1950, c. 228, s. 9.
- Payment to members of the Council **10.** There shall be paid to the members of the Council such fees for attendance, and such reasonable travelling expenses, as may be fixed by by-law of the Council. R.S.O. 1950, c. 228, s. 10.
- Appointment of officers **11.**—(1) The Council shall annually elect a president and vice-president from among its members and shall also appoint a registrar-treasurer, assistant registrar and such other officers as may from time to time be necessary for giving effect to this Act, who shall hold office during the pleasure of the Council, and the Council may fix the salaries or fees to be paid to such officers, and to the board of examiners hereinafter mentioned.
- Absence of registrar-treasurer (2) During the absence of the registrar-treasurer by reason of illness or otherwise, the powers and duties conferred and imposed upon him by this Act shall be exercised and performed by the assistant registrar. R.S.O. 1950, c. 228, s. 11.
- Executive committee **12.** The Council shall appoint annually from among its members an executive committee, to take cognizance of, and action upon, all such matters as may be delegated to it by the Council or as may require immediate interference or attention between the adjournment of the Council and its next meeting, and all such acts are valid only until the next ensuing meeting

of the Council; but the committee has no power to alter, repeal or suspend any by-law of the Council. R.S.O. 1950, c. 228, s. 12.

**13.—**(1) In each of the territorial divisions described in Schedule A there may be established a territorial division medical association, which may be called the division association of such division. Territorial division medical associations

(2) Every member of the College resident within the territorial division, is a member of the division association, and the representative elected to the Council for the territorial division is *ex officio* chairman of the division association. R.S.O. 1950, c. 228, s. 13. Membership

**14.—**(1) The Council has power and authority to make regulations respecting educational qualifications for all candidates applying for student registration but any change in the curriculum of studies fixed by the Council shall not come into effect until one year after such change is made. Educational qualifications of students

(2) Until a homœopathic medical college for teaching purposes is established in Ontario, candidates wishing to be registered as homœopathists shall possess the educational qualification fixed pursuant to subsection 1, and shall present evidence of having spent the full period of study required by the curriculum of the Council in a duly approved homœopathic medical college under the supervision of a duly registered homœopathic practitioner. Homœopathists

(3) Such candidates must also have complied with the full curriculum of studies prescribed from time to time by the Council for all medical students, but the full time of attendance upon lectures and hospitals required by the curriculum of the Council may be spent in such homœopathic medical colleges in the United States of America or in Europe as may be recognized by a majority of the homœopathic members of the Council, provided only that the time so spent shall not be less in length than that required of other students; but in all homœopathic colleges, where the winter course of lectures is of only four months duration, certified tickets of attendance on one such course shall be held to be equivalent to two-thirds of one six-month course as required by the Council, and when such teaching body has been established in Ontario it shall be optional for such candidates to pursue in part or in full the required curriculum in Ontario. R.S.O. 1950, c. 228, s. 14. Compliance with curriculum

**15.** The Council may make by-laws as to the terms upon which it will receive the certificates of colleges and other institutions not in Ontario. R.S.O. 1950, c. 228, s. 15. Council may recognize certificates of foreign institutions



Graduates  
of Univer-  
sities in  
Her  
Majesty's  
dominions

**16.** Graduates in science and graduates in arts including a science, of any university in Her Majesty's dominions shall be deemed to possess the educational qualifications fixed pursuant to subsection 1 of section 14. R.S.O. 1950, c. 228, s. 16.

Curriculum  
of studies

**17.** The Council may prescribe a curriculum of studies to be pursued by the students, and such curriculum of studies shall be observed and taught by all bodies referred to in section 3. R.S.O. 1950, c. 228, s. 17.

Approval  
for medical  
courses

**18.—(1)** No person shall conduct a course or courses in the science or art of medicine or shall grant degrees in medicine without the approval of the Lieutenant Governor in Council upon the recommendation of the Minister of Health.

Revocation  
of approval

**(2)** Upon the recommendation of the Minister of Health, the Lieutenant Governor in Council may at any time revoke any approval given under this section. R.S.O. 1950, c. 228, s. 18.

Registration

**19.—(1)** The Council shall cause to be kept by the registrar a book or register, in which shall be entered the name of every person registered according to the provisions of this Act, and the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made or to be made by the Council respecting the qualifications to be required from practitioners of medicine, surgery and midwifery in Ontario.

Only  
registered  
persons to  
practise

**(2)** Those persons only whose names are inscribed in the book or register mentioned in subsection 1 shall be deemed to be qualified and licensed to practise medicine, surgery or midwifery in Ontario, except as hereinafter provided.

Inspection  
of register

**(3)** The book or register shall at all times be open and subject to inspection by any duly registered practitioner in Ontario or by any other person. R.S.O. 1950, c. 228, s. 19.

Educational  
Register

**20.—(1)** The Council may by by-law establish and maintain a register to be known as the "Educational Register". 1952, c. 55, s. 1, *part*; 1960, c. 66, s. 4.

Registration

**(2)** The registrar of the College may register in the Educational Register any person who,

- (a)** is a graduate of a university or college referred to in paragraph 2 of subsection 1 of section 3, or possesses equivalent qualifications; and
- (b)** is employed as an interne or is engaged in post-graduate work in a public hospital approved under

*The Public Hospitals Act*, a hospital within the meaning of *The Mental Hospitals Act*, the Toronto Psychiatric Hospital, an isolation hospital established under *The Public Health Act*, a sanatorium for consumptives within the meaning of *The Sanatoria for Consumptives Act*, or a hospital operated and maintained by Her Majesty in right of Canada; and

- (c) pays the registration fee prescribed by the by-laws. 1952, c. 55, s. 1, *part*; 1956, c. 46, s. 1.

(3) The registrar may remove the name of any person registered under subsection 2 from the Educational Register upon the termination of the employment of such person in the hospital in which such employment entitled him to registration. Removal of names

(4) Any person registered on the Educational Register may practice medicine, surgery or midwifery only in the hospital in which the person so registered is employed. 1952, c. 55, s. 1, *part*. Practice

**21.**—(1) The registrar shall keep the register correct and in accordance with this Act and the orders and regulations of the Council, and shall erase the names of all registered persons who have died, and make the necessary alterations in the addresses and qualifications of the persons registered under this Act. Registrar to keep register correct

(2) To enable the registrar duly to fulfil the duties imposed upon him, he may, by letter sent by registered mail addressed to any registered person according to his address on the register, inquire whether such person has ceased to practise or has changed his residence, and if no answer to such letter is received within the period of six months from the mailing thereof the registrar may erase the name of such person from the register; but such name shall be restored to the register on compliance with the other provisions of this Act. R.S.O. 1950, c. 228, s. 20. Written inquiry by registrar

**22.** The Council may admit to registration medical practitioners duly registered in The Medical Register of the United Kingdom, or in any register of persons entitled to practise in any part of the Commonwealth of Nations, upon such terms and conditions as the Council may from time to time deem expedient, having regard not only to the qualification of applicants for registration, but also to such rules, regulations and conditions as may be from time to time in force regarding the reciprocal admission to The Medical Register of the United Kingdom or other register as aforesaid of medical practitioners registered according to the provisions of this Act. R.S.O. 1950, c. 228, s. 21. Admitting medical practitioners registered elsewhere

Temporary  
Register

**23.**—(1) The Council may by by-law establish and maintain a register to be known as the "Temporary Register" and may from time to time make regulations respecting the persons or classes of persons who may be registered therein, the qualifications to be required of such persons, the fees payable by those so registered, and the conditions, limitations and restrictions applicable to such persons.

Effect of  
registration

(2) The persons registered in the Temporary Register are entitled to practise medicine, surgery and midwifery and shall be deemed to be registered medical practitioners only for the period, in the manner, to the extent, and subject to the conditions, limitations and restrictions set out in the regulations applicable to such persons.

Removal of  
name from  
Register

(3) Upon any person so registered ceasing to comply, either as a result of circumstances or default, with the terms of the regulations applicable, the registrar shall remove the name of such person from the Temporary Register. 1960, c. 66, s. 5.

Qualifica-  
tions

**24.** Every person desirous of being registered under this Act shall, before being entitled to registration, be possessed of such qualifications as the orders, regulations or by-laws of the Council may provide, and shall have complied therewith. R.S.O. 1950, c. 228, s. 23.

Examina-  
tions held  
under  
R.S.C. 1952,  
c. 27

**25.**—(1) The Council may by by-law provide that persons applying for registration shall pass the examinations conducted by the Medical Council of Canada pursuant to the *Canada Medical Act* and produce a certificate of qualification from such last-mentioned Council.

Provincial  
examina-  
tions sus-  
pended

(2) During the time a by-law passed under subsection 1 remains in force and the Medical Council of Canada conducts annual examinations in Ontario, the Council shall not be required to appoint examiners or conduct examinations as provided in sections 27, 28 and 29. R.S.O. 1950, c. 228, s. 24.

Registration  
of persons  
from other  
provinces

**26.** When and as soon as it appears that there has been established in any other province of Canada a central examining board similar to that constituted by this Act, or an institution duly recognized by the legislature of such other province as the sole examining body for the purpose of granting certificates of qualification, and wherein the curriculum is equal to that established in Ontario the holder of any such certificate is entitled to registration by the Council upon the production of his certificate if the same privilege is accorded by such examining board or institution to those holding certificates in Ontario. R.S.O. 1950, c. 228, s. 25.



**27.**—(1) At the annual meeting of the Council in each year, there shall be elected a board of examiners whose duty it is to examine, at least once in each year, all candidates for registration in accordance with the by-laws, rules and regulations of the Council. <sup>Board of examiners</sup>

(2) The board of examiners shall be composed of one member from each of the medical teaching bodies now existing or hereafter authorized and established as referred to in section 3 and not less than a like number of members to be chosen from among those members of the College who are not connected with any of such teaching bodies. <sup>Examiners, how appointed</sup> R.S.O. 1950, c. 228, s. 26.

**28.** The examinations shall be held at Toronto at such times and in such manner as the Council by by-law directs and may also be held at Kingston and London if not less than ten candidates apply for examination at such cities. <sup>Where examinations to be held</sup> R.S.O. 1950, c. 228, s. 27.

**29.** A candidate who, at the time of his examination, signifies his wish to be registered as a homœopathic practitioner, shall not be required to pass an examination in either materia medica, or therapeutics, or in the theory or practice of physic, or in surgery or midwifery, except the operative practical parts thereof, before any examiners other than those approved of by the representatives in the Council of the homœopathic system. <sup>Examinations of homœopaths</sup> R.S.O. 1950, c. 228, s. 28.

**30.**—(1) The Council shall from time to time as occasion may require, make such orders, regulations or by-laws as may be necessary, <sup>Power of Council to make rules, etc.</sup>

(a) respecting the registers to be kept under this Act, and the fees to be paid for registration;

(b) for the guidance of the board of examiners.

(2) The Council may prescribe the subjects and modes of the examinations, the time and place of holding the same, and generally may make all such rules and regulations in respect of such examinations, not contrary to the provisions of this Act, as they deem expedient and necessary. <sup>As to examinations</sup> R.S.O. 1950, c. 228, s. 29.

**31.** Every person registered under this Act who obtains any higher degree or any qualification other than the qualification in respect of which he has been registered, is, on the payment of such fees as the Council may prescribe, entitled to have such higher degree or additional qualification inserted in the register in substitution for, or in addition to, <sup>Additional qualification or degree</sup>

the qualification previously registered. R.S.O. 1950, c. 228, s. 30.

Registrar to be satisfied as to qualification

**32.**—(1) No qualification shall be entered on the register either on the first registration or by way of addition to a registered name unless the registrar is satisfied by proper evidence that the person claiming is entitled to it, and any appeal from the decision of the registrar may be decided by the Council, and any entry proved to the satisfaction of the Council to have been incorrectly made shall be erased from the register by resolution passed by the Council.

Evidence on oath

(2) In the event of the registrar being dissatisfied with the evidence adduced by the person claiming to be registered, he has the power, subject to an appeal to the Council, of refusing registration until the person claiming to be registered has furnished such evidence duly attested by oath before the judge of a county or district court. R.S.O. 1950, c. 228, s. 31.

Erasure from register

**33.**—(1) Where a registered medical practitioner has, either before or after he is registered, been convicted in Canada of an indictable offence or elsewhere of an offence which, if committed in Canada, would be an indictable offence, or been guilty of any infamous, disgraceful or improper conduct in a professional respect, such practitioner is liable to have his name erased from the register.

Inquiry

(2) The Council or the executive committee may, and upon the application of any four registered medical practitioners shall, cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section and, on proof of such conviction or such infamous, disgraceful or improper conduct, the Council shall cause the name of such person to be erased from the register.

Saving

(3) The name of a person shall not be erased under this section on account of his adopting, or refraining from adopting, the practice of any particular theory of medicine or surgery, nor on account of a conviction for a political offence out of Her Majesty's realms and territories, nor on account of a conviction for an offence which though within this section ought not, either from the trivial nature of the offence, or from the circumstances under which it was committed, to disqualify a person from practising medicine, surgery or midwifery. 1960, c. 66, s. 6.

Order for payment of costs to respondent

(4) The Council may order to be paid out of any funds at their disposal such costs as to them may seem just to any person against whom any complaint has been made which when finally determined is found to have been frivolous and vexatious.

(5) Upon receipt of proof of the finding or decision of any court of record in Canada, civil or criminal, that a criminal offence has been committed in connection with the practice of his profession by any registered medical practitioner, the registrar shall immediately erase from the register the name of such practitioner. R.S.O. 1950, c. 228, s. 32 (3, 4). Removal  
from register  
after conviction by  
court

**34.**—(1) Where the Council directs the erasure from the register of the name of any person, or of any other entry, the name of that person or that entry shall not be again entered on the register, except by the direction of the Council, or by the order of the Court of Appeal. Restoring  
names to  
register after  
erasure

(2) If the Council think fit in any case, they may direct the registrar to restore to the register any name or entry erased therefrom either without fee or on payment of such fee, not exceeding the registration fee, as the Council may from time to time fix, and the registrar shall restore the same accordingly. R.S.O. 1950, c. 228, s. 33. Restoration  
by Council

**35.**—(1) When a registered medical practitioner has been declared, certified, adjudged or found to be mentally incompetent or mentally ill or incapable of managing his affairs as the result of mental illness, habitual drunkenness or the use of drugs pursuant to the relevant statutes in that behalf, the committee of the person or property of such practitioner shall forthwith notify the registrar in writing, stating the particulars of the declaration, certification, judgment or order so made, and the name and address of the committee, and upon receipt of such notification the registrar shall forthwith suspend the registration of such practitioner and record such suspension in the register. Suspension  
of registra-  
tion when  
mentally ill,  
etc.

(2) When, pursuant to certification by a court or voluntary application or otherwise, a registered medical practitioner is admitted for care and treatment of mental illness to a hospital or institution within the meaning of *The Mental Hospitals Act* or *The Psychiatric Hospitals Act* and remains in such hospital or institution for care and treatment after the expiration of sixty days from the day of his admission, the registration of such practitioner shall be deemed to be suspended as of the sixty-first day from the day of his admission and the administrator, superintendent or supervisor of such hospital or institution shall thereupon forthwith report such facts to the registrar, who shall forthwith record such suspension in the register unless it has been previously recorded therein under subsection 1. Idem  
R.S.O. 1960,  
cc. 236, 315

(3) Upon the release or discharge of the practitioner from the hospital or institution, the administrator, superintendent Notice of  
release or  
discharge



or supervisor thereof shall forthwith notify the registrar of such release or discharge.

Termination of suspension, cases under subs. 1

(4) When a practitioner whose registration has been suspended under subsection 1 is declared, certified, adjudged or found to be mentally competent or capable of managing his affairs by final declaration, certification, judgment or order, the registrar shall, upon receipt of a certified copy thereof, forthwith terminate the suspension of such practitioner by an entry in the register.

Idem, cases under subs. 2

(5) Any practitioner whose registration has been suspended under subsection 2 may apply to the Council for termination of the suspension of his registration, and the Council shall inquire into and determine the matter, but shall not terminate the suspension unless it is satisfied beyond reasonable doubt that the mental condition of the practitioner is such that, having due regard to the public interest, the suspension of his registration may properly be terminated.

Application of ss. 37-41

(6) For the purposes of such inquiry and the termination of suspension of registration of any such practitioner, sections 37 to 41 apply, and the right of appeal mentioned in sections 38 and 39 applies to a person suspended under this section in the same manner as if his name had been erased from the register.

Hearing in camera upon request

(7) If the applicant so requests, his application shall be heard in camera.

Entry on Temporary Register

(8) Instead of directing the termination of suspension of registration of the practitioner, the Council may direct that his name be entered in the Temporary Register for such period and upon such terms and conditions as the Council prescribes.

Examination of hospital records

(9) Upon the practitioner's application for termination of the suspension of his registration, the Council and the committee appointed under section 37 are entitled to examine and to be furnished by the hospital or institution with a copy of the practitioner's record of admission, diagnosis, treatment and release, and all other papers, reports and records in their possession relating to the care, treatment and conduct of the practitioner.

Disposal of record

(10) The record of the proceedings upon the practitioner's application for termination of suspension of registration, including all evidence, documents and exhibits in connection therewith, shall be placed in a separate envelope or container and sealed by the registrar and, except for the purposes of an appeal from the decision of the Council, shall be deemed to be privileged communications. 1960, c. 66, s. 7.

**36.—**(1) In the cases mentioned in subsection 1 of section 33, the Council, instead of directing the erasure from the register of the name of any person, may direct that the registration of such person be suspended for such period as the Council may deem proper, and during the period of such suspension it is unlawful for the person suspended to engage in the practice of medicine in Ontario, and he shall during such period be deemed to be unregistered. Suspension of registration

(2) If such person engages in the practice of medicine during the period of such suspension, he is guilty of an offence and on summary conviction is liable to the fine provided by section 51. Practising while suspended

(3) Sections 37 to 41 apply to the suspending of any person under this section in the same manner as to the erasing from the register of the name of any person. R.S.O. 1950, c. 228, s. 34. Application of other provisions to suspension

**37.—**(1) The Council shall for the purpose of exercising in any case the powers of erasing from and of restoring to the register the name of any person or any entry, ascertain the facts of such case by a committee of their own body not exceeding five in number, of whom the quorum shall be not less than three, and a written report of the committee may be acted upon for the purpose of the exercise of such powers by the Council. Committee for erasing and restoring names

(2) The Council shall from time to time appoint, and shall always maintain a committee for the purposes of this section, and subject to the provisions of this section, may from time to time determine the constitution, and the number and tenure of office of the members of the committee. Appointment

(3) The committee shall meet from time to time for the despatch of business and, subject to the provisions of this section and of any regulations from time to time made by the Council, may regulate the summoning, notice, place, management and adjournment of such meetings, the appointment of a chairman, the mode of deciding questions and generally the transaction and management of business including the quorum, and if there is a quorum the committee may act notwithstanding any vacancy in their body and in case of a vacancy the committee may appoint a member of the Council to fill the vacancy until the next meeting of the Council, and if through illness or for any other reason a member of this committee is unable or unwilling to act, the president, or in his absence the vice-president, has power to appoint a member in his place. Procedure

(4) The committee may, for the purpose of the execution of their duties under this Act, employ, at the expense of the Legal assistance, etc.

Council, such legal or other assessor or assistant as the committee may think necessary or proper, and the person whose conduct is the subject of inquiry also has the right to be represented by counsel, and all meetings of any such committee when held for taking evidence or otherwise ascertaining the facts shall be held either within the county where the member complained of resides or the alleged offence was committed or at the City of Toronto as may be determined by the registrar.

Notice of  
charge and  
hearing

(5) At least two weeks before the first meeting of the committee to be held for taking the evidence or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct is the subject of inquiry, and the notice shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry, and shall also specify the time and place of the meeting.

Evidence

(6) The testimony of witnesses shall be taken under oath, to be administered by the chairman or acting chairman of the committee, and there shall be full right to cross-examine all witnesses called and to call evidence in defence and reply.

Proceeding  
in absence  
of accused

(7) In the event of the non-attendance of the person whose conduct is the subject of such inquiry, the committee may, upon proof of personal service of the notice aforesaid in accordance with the provisions of this section, which proof of service may be by statutory declaration, proceed with the subject matter of the inquiry in his absence and may make their report of the facts without further notice to such person.

Service of  
notice

(8) The notice required by subsection 5 shall be deemed to have been duly served in accordance with the provisions thereof if sent by registered mail to the address of the person required to be served, as last entered upon the register. R.S.O. 1950, c. 228, s. 35.

Appeal from  
committee

**38.** No action shall be brought against the Council, committee, registrar-treasurer or assistant registrar for anything done *bona fide* under this Act, notwithstanding any want of form in the proceedings, but any person whose name has been ordered to be erased from the register may appeal from the decision of the Council to the Court of Appeal, at any time within six months from the date of the order for such erasure, and the court may, upon the hearing of the appeal, make such order as to the restoration of the name so erased or confirming such erasure, or for further inquiry by the committee or Council into the facts of the case, and as to costs as the court deems just. R.S.O. 1950, c. 228, s. 36.



**39.** The appeal may be by motion, notice of which shall be served upon the registrar, and shall be founded upon a copy of the proceedings before the committee, the evidence taken, the committee's report and the order of the Council in the matter, certified by the registrar, and the registrar shall, upon the request of any person desiring to appeal, and upon payment of the cost thereof furnish to any such person a certified copy of all proceedings, reports, orders and papers, upon which the committee have acted in making the order complained of. R.S.O. 1950, c. 228, s. 37. Procedure

**40.** Upon any inquiry under section 33 either party may, without leave or order, obtain from the Supreme Court a subpoena commanding the attendance and examination of any witness and also the production of any documents the production of which could be compelled at the trial of an action, to and before the committee and at the time and place mentioned in the subpoena, and disobedience to the subpoena shall be deemed a contempt of court, but the person whose attendance is required is entitled to the like conduct money and payment of expenses and for loss of time as upon attendance at a trial. R.S.O. 1950, c. 228, s. 38. Evidence before committee for erasing and restoring names

**41.** In case of the erasure of a name under the preceding provisions of this Act, the Council may direct the costs of and incidental to such erasure to be paid by the party whose name has been directed to be erased, which costs shall first be taxed by one of the taxing officers of the Supreme Court upon whose certificate execution may issue for the collection of such costs by the College out of the Supreme Court as upon a judgment in an action in such court. R.S.O. 1950, c. 228, s. 39. Costs of proceedings

**42.** Every person, registered under this Act is entitled according to his qualification or qualifications to practise medicine, surgery or midwifery, or any of them, as the case may be, in Ontario, and to demand and recover in any court reasonable charges for professional aid, advice and visits and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. R.S.O. 1950, c. 228, s. 40. Rights of registered persons

**43.** No duly registered member of the College is liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within one year from the date when in the matter complained of such professional services terminated. R.S.O. 1950, c. 228, s. 41. Limitation of actions for negligence

Register to  
be printed  
and pub-  
lished

**44.**—(1) The registrar shall from time to time under the direction of the Council cause to be printed and published a correct register of the names in alphabetical order according to the surnames, with the respective residences in the form set forth in Schedule B, or to the like effect, with the titles, diplomas and qualifications of medical character and the dates thereof, of all persons appearing on the register as existing on the day of publication and such register shall be called The Published Ontario Medical Register.

Register to  
be *prima facie*  
evidence  
in all courts

(2) A copy of such register for the time being purporting to be printed and published as aforesaid, is *prima facie* evidence in all courts, and before all justices of the peace, and others, that the persons therein specified are registered according to the provisions of this Act, and, subject to subsection 3, the absence of the name of any person from such copy is *prima facie* evidence that such person is not registered according to the provisions of this Act.

Certified  
copy of  
entry of  
name

(3) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the registrar, of the entry of the name of such person on the register, is evidence that such person is registered under this Act. R.S.O. 1950, c. 228, s. 42.

Annual fee

**45.**—(1) Every member of the College shall pay to the registrar or to any person deputed by the registrar to receive it, such annual fee as may from time to time be determined by by-laws of the Council passed in accordance with this section, to be applied towards the general expenses of the College, which fee shall be due on and from the 1st day of January in the year in which the fee is imposed, and such fee shall be deemed to be a debt due by each member to the College, and is recoverable with costs of suit in the name of the College of Physicians and Surgeons of Ontario, in the division court of the division in which the member resides. R.S.O. 1950, c. 228, s. 43 (1); 1956, c. 46, s. 2.

Collection  
of fee

(2) The Council may by by-law prescribe means of collecting and enforcing the payment of such annual fee. R.S.O. 1950, c. 228, s. 43 (2).

Annual  
certificate

**46.**—(1) Every registered medical practitioner shall obtain from the registrar annually, in the month of January, a certificate under the seal of the College that he is a duly registered medical practitioner.

Issue of  
certificate

(2) Upon payment of all fees and dues payable by such medical practitioner to the College, the registrar shall write his name on the margin of the certificate and the date thereof

and the certificate shall be deemed to be issued only from such date.

(3) No certificate shall be issued to any practitioner who is indebted to the College for any sums payable to the College, nor until the annual fee for such certificate prescribed by the by-laws of the College under this Act is paid. Certificate not to issue until fees paid

(4) If a practitioner omits to take out such annual certificate he is not entitled thereto until he pays to the College the certificate fee as aforesaid, together with any other fees or dues that he owes to the College. Penalty for not taking out annual certificate

(5) After twelve months default in taking out such certificate, and if two months notice of such default is given by registered letter addressed to the registered address of the defaulter, the registrar shall, if payment has not been made by the defaulter, erase his name from the register, and the provisions of this Act as to unregistered medical practitioners forthwith apply to such medical practitioner. Erasure of name where default made for 12 months

(6) Such medical practitioner may, unless otherwise disqualified under this Act, at any time after his name is so erased by the registrar, obtain re-registration by applying to the registrar and paying \$5 in addition to all arrears of fees and dues under this Act, and taking out his certificate as herein provided, and he is thereupon reinstated to the full privileges enjoyed by other registered medical practitioners under this Act. R.S.O. 1950, c. 228, s. 44. Re-registration upon payment of arrears

**47.**—(1) The provisions of sections 45 and 46 only continue in force so long as a by-law of the Council adopting the same remains in force, and the Council may repeal such by-law and may by by-law from time to time re-enact such provisions in whole or in part, or with such modifications as the Council deems proper. R.S.O. 1950, c. 228, s. 45 (1); 1960, c. 66, s. 8. Power of Council in respect of ss. 45, 46

(2) No member of the Council is entitled to vote on any by-law under this section except the elected members of the Council, six of whom at least must be present at the passing of the by-law. R.S.O. 1950, c. 228, s. 45 (2). Who may vote on by-laws under this section

**48.** Any person entitled to be registered under this Act but who neglects or omits to be so registered is not entitled to any of the rights or privileges conferred by registration, so long as such neglect or omission continues, and he is liable to all the penalties imposed by this Act, or by any other Act in force against unqualified or unregistered practitioners. R.S.O. 1950, c. 228, s. 46. Those entitled to register and neglecting to do so



Penalty on registrar for falsification

**49.** If the registrar makes or causes to be made any wilful falsification in any matter relating to the register, he is guilty of an offence and on summary conviction is liable to a fine of \$50, and is disqualified from again holding the office of registrar. R.S.O. 1950, c. 228, s. 47.

Penalty for obtaining registration by fraud

**50.**—(1) If any person procures or causes to be procured his registration under this Act, by means of any false or fraudulent representation or declaration, either verbal or in writing, the registrar, upon the receipt of sufficient evidence of the falsity or fraudulent character of the said representation or declaration, shall represent the matter to the Council, and upon the written order of the president, attested by the seal of the College, shall erase the name of such person from the register, and make known the fact and cause of the erasure by notice to be published in *The Ontario Gazette*.

Consequences of erasure

(2) After such notice has appeared, the person whose name has been erased as aforesaid ceases to be a member of the College and ceases to enjoy any of the privileges conferred by registration under this Act, and is not entitled to enjoy the same at any future time without the express sanction of the Council.

Penalty

(3) If any person wilfully procures or attempts to procure himself to be registered under this Act, by making any false or fraudulent representation or declaration, either verbally or in writing, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$100, and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$50. R.S.O. 1950, c. 228, s. 48.

Penalty for practising without registration

**51.** No person not registered shall practise medicine, surgery or midwifery for hire, gain or hope of reward, and if any person not registered pursuant to this Act, for hire, gain or hope of reward practises or professes to practise medicine, surgery or midwifery, or advertises to give advice in medicine, surgery or midwifery, he is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 for the first offence, and for any subsequent offence to a fine of not less than \$200 and not more than \$500. R.S.O. 1950, c. 228, s. 49.

Penalty for falsely pretending, etc.

**52.** Any person who wilfully or falsely pretends to be a physician, doctor of medicine, surgeon or general practitioner, or assumes any title, addition or description other than he actually possesses and is legally entitled to, is guilty of an offence and on summary conviction is liable to a fine of not

less than \$50 and not more than \$100 for the first offence, and for any subsequent offence to a fine of not less than \$200 and not more than \$500. R.S.O. 1950, c. 228, s. 50.

**53.**—(1) Any person not registered pursuant to this Act who takes or uses any name, title, addition or description <sup>Use of certain titles restricted</sup> implying or calculated to lead people to infer that he is registered under this Act, or that he is recognized by law as a physician, surgeon, accoucheur or a licentiate in medicine, surgery or midwifery, or who assumes, uses or employs the title "Doctor", "Surgeon" or "Physician" or any affix or prefix indicative of such titles as an occupational designation relating to the treatment of human ailments or physical defects or advertises or holds himself out as such, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 for the first offence, and for any subsequent offence to a fine of not less than \$200 and not more than \$500.

(2) Subsection 1 does not apply to any licentiate of dental surgery or any other person admitted to practise dentistry <sup>Exception as to dentistry</sup> or dental surgery under *The Dentistry Act*. R.S.O. 1950, <sup>R.S.O. 1960, c. 91</sup> c. 228, s. 51.

**54.** No person is entitled to recover any charge in a court <sup>Not entitled to recover charges unless registered</sup> for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine that he may have prescribed or supplied, unless he produces to the court a certificate that he was registered under this Act at the time the services were rendered, but this section does not apply,

- (a) to the sale of any drug or medicine by any duly authorized chemist or druggist;
- (b) to the personal representative of a deceased person who at the time of giving, making, performing, prescribing or supplying such advice, attendance, operation or medicine was so registered; or
- (c) where such advice, attendance, operation or medicine was given, made, performed, prescribed or supplied outside of Ontario. R.S.O. 1950, c. 228, s. 52.

**55.** No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of Ontario, or in any hospital or other charitable institution not supported wholly by voluntary contributions, unless he is registered <sup>Public appointments only conferred on registered persons</sup> under this Act. R.S.O. 1950, c. 228, s. 53.

Certificates  
by unregis-  
tered persons  
invalid

**56.** No certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, is valid unless the person signing the certificate is registered under this Act. R.S.O. 1950, c. 228, s. 54.

Burden of  
proof

**57.** In any trial under this Act the burden of proof as to registration is upon the person charged. R.S.O. 1950, c. 228, s. 55.

Evidence of  
registry and  
signature of  
registrar

**58.** In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the registrar is sufficient evidence of all persons who are registered practitioners, in lieu of the production of the original register, and any certificate upon such printed or other copy of the register, purporting to be signed by any person in his capacity of registrar under this Act is *prima facie* evidence that such person is the registrar, without any proof of his signature or of his being in fact the registrar. R.S.O. 1950, c. 228, s. 56.

Limitation  
of prosecu-  
tions

**59.** Every prosecution under this Act shall be commenced within one year from the date of the alleged offence. R.S.O. 1950, c. 228, s. 57.

Stay of  
proceedings

**60.** If the Council deems it expedient so to do, it may stay proceedings in any prosecution under this Act by an order signed by the president and sealed with the seal of the College. R.S.O. 1950, c. 228, s. 58.

To whom  
penalties  
paid

**61.**—(1) All penalties recovered under this Act shall be paid to the convicting justice and shall be paid by him to the registrar of the College, and shall form part of the funds thereof.

Prosecutor

(2) Any person may be prosecutor or complainant under this Act, and the Council may allot such portion of the penalties recovered as may be expedient towards the payment of such prosecutor. R.S.O. 1950, c. 228, s. 59.

Specialists

**62.**—(1) The Council may make regulations providing for a system of classification of legally qualified medical practitioners who because of special training or qualifications are specialists in any branch of medicine, surgery or midwifery and may in such regulations,

- (a) define the nature of the various classes of specialists;
- (b) prescribe the qualifications required of specialists in the various classes;



- (c) provide for the designation of specialists upon application and examination or otherwise and for the suspension or revocation of any such designation;
- (d) regulate and prohibit the use of terms or designations by medical practitioners indicating specialization in any branch of medicine, surgery or midwifery;
- (e) prescribe the fees payable by persons designated as specialists and provide for the collection thereof.

(2) A certificate as to the designation or non-designation of any person as a specialist signed or purporting to be signed by the registrar is admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the registrar. R.S.O. 1950, c. 228, s. 60. Certificate  
of registrar

**63.** The Council, subject to the approval of the Lieutenant Governor in Council, may make regulations prohibiting, regulating and controlling the use of the word "clinic" in connection with the practice of medicine, surgery or midwifery, and in particular may prescribe the minimum number and the classes of practitioners that may operate a clinic and the nature and extent of the services that they shall provide. 1960, c. 66, s. 9.

**64.** All moneys forming part of the Council funds shall be paid to the treasurer and may be applied or used in such manner as the Council may determine, Council  
funds

- (a) for the carrying out of the provisions of this Act;
  - (b) for any purpose that may tend to advance scientific knowledge or medical education and maintain the standards of the practice of medicine, surgery and midwifery;
  - (c) for assisting in the maintenance of a fund for the benefit of needy medical practitioners in Ontario; and
  - (d) generally to promote the objects of the College.
- R.S.O. 1950, c. 228, s. 61.

**65.** So long as a by-law passed under subsection 1 of section 25 remains in force, the registrar shall enter on the register, upon application, the name of any person who, Registration  
of persons  
registered  
under  
R.S.C. 1952,  
c. 27

- (a) is registered under the *Canada Medical Act*;
- (b) pays the fees fixed by the College; and
- (c) complies with the regulations of the College. 1957, c. 69, s. 1.

## SCHEDULE A

## TERRITORIAL DIVISIONS

(CONSISTING OF THE FOLLOWING COUNTIES, DISTRICTS AND MUNICIPALITIES AS THEY EXIST TERRITORIALY AT THE TIME OF THE ELECTION AT WHICH THEY ARE APPLIED)

- |  |   |
|--|---|
| <p>1—Essex<br/>Kent<br/>Lambton<br/>Elgin</p> <p>2—Middlesex<br/>Norfolk<br/>Oxford<br/>Perth<br/>Huron</p> <p>3—Bruce<br/>Grey<br/>Dufferin<br/>Waterloo<br/>Brant<br/>Wellington</p> <p>4—Haldimand<br/>Welland<br/>Lincoln<br/>Wentworth</p> <p>5—Simcoe<br/>Halton<br/>Peel<br/>York, except division 10<br/>Ontario<br/>Durham<br/>Victoria</p> | <p>6—Peterborough<br/>Northumberland<br/>Prince Edward<br/>Hastings<br/>Lennox and Addington<br/>Frontenac<br/>Renfrew<br/>Leeds</p> <p>7—Lanark<br/>Grenville<br/>Carleton<br/>Dundas<br/>Stormont<br/>Glengarry<br/>Russell<br/>Prescott</p> <p>8—Haliburton<br/>Muskoka<br/>Parry Sound<br/>Nipissing<br/>Timiskaming<br/>Manitoulin<br/>Sudbury<br/>Algoma<br/>Cochrane</p> <p>9—Thunder Bay<br/>Rainy River<br/>Kenora<br/>Patricia</p> <p>10—The Municipality of<br/>Metropolitan Toronto</p> |
|--|---|

1960, c. 66, s. 10.

## SCHEDULE B

## FORM OF REGISTER

Name	Residence	Qualifications and Additions
A.B.	Toronto, County of York.....	M.A., M.D., University of Toronto
C.D.	Kingston, County of Frontenac	M.A., M.D., Queen's University
E.F.	Etobicoke, County of York.....	M.A., M.D., University of Western Ontario
G.H.	Toronto.....	M.A., M.D., University of Toronto

R.S.O. 1950, c. 228, Sched. B.

## CHAPTER 235

**The Mental Health Act****1. In this Act,**Interpre-  
tation

- (a) "Department" means the Department of Health;
- (b) "Director" means the Director of Mental Health of the Department;
- (c) "hospital" means a hospital approved under *The Public Hospitals Act*; R.S.O. 1960,  
c. 322
- (d) "local board" means the local board of health for any municipality or of a health unit;
- (e) "medical officer of health" means a medical officer of health appointed under *The Public Health Act* or any person having the powers thereof; R.S.O. 1960,  
c. 321
- (f) "mental health accommodation" means the accommodation and facilities established and maintained in a hospital for the care and treatment of persons suffering from psychiatric disorders and includes an observation unit and a detention unit approved under *The Mental Hospitals Act*; R.S.O. 1960,  
c. 236
- (g) "mental health officer" means an officer of the Department appointed under this Act;
- (h) "Minister" means the Minister of Health;
- (i) "patient" means a person received and lodged in mental health accommodation for the purpose of receiving treatment;
- (j) "regulations" means the regulations made under this Act. 1954, c. 50, s. 1.

**2.** Under the direction of the Minister, the officers of the Department shall promote and encourage the establishment and co-ordination of facilities for the accumulation and dissemination of information relating to mental health, and advise and assist local boards, medical officers of health, public hospitals and other persons and institutions in all matters pertaining to mental health. 1954, c. 50, s. 2.



Director of  
Mental  
Health

**3.**—(1) For the purpose of carrying out the provisions of this Act and the regulations, the Minister may appoint an officer of the Department to be known as the "Director of Mental Health".

Duties

(2) The Director shall perform such duties as may be assigned to him by this Act, the regulations or the Minister.

Idem

(3) The duties of the Director include,

- (a) the investigation of mental health problems;
- (b) the accumulation of information and statistics in respect of mental health;
- (c) the dissemination of information among and assistance to local boards, medical officers of health, public hospitals and other persons and institutions;
- (d) the inspection and supervision of the accommodation and facilities established and operated by public hospitals for the care and treatment of patients suffering from psychiatric disorders;
- (e) the education of the public in matters of mental health;
- (f) the promotion and co-ordination of facilities and advice in matters relating to community mental health; and
- (g) submission of such reports to the Minister as he may direct. 1954, c. 50, s. 3.

Mental  
health  
officers

**4.** The Minister may appoint officers of the Department to be known as "mental health officers" who shall perform such duties as may be assigned to them by this Act, the regulations or the Minister. 1954, c. 50, s. 4.

Duties

**5.** Every mental health officer shall visit and inspect mental health accommodation when and as required by the regulations or by the Director and when visiting mental health accommodation may inspect any part of that accommodation and see any patient therein, and inspect all books, records, certificates and forms relating to such patient and shall submit a full report of his inspection to the Minister. 1954, c. 50, s. 5.

Superinten-  
dent to  
permit  
inspections

**6.** The superintendent of a hospital in which mental health accommodation is established shall permit a mental health officer to make inspections under this Act at any time. 1954, c. 50, s. 6.

7. Every mental health officer when inspecting mental health accommodation shall inquire whether any patient is under restraint and why and shall inspect the certificate or certificates for the reception and detention of every patient therein and shall observe,

Inquiries  
to be made  
by mental  
health  
officers

- (a) the condition of the mental health accommodation, its equipment and facilities;
- (b) the appearance of the patients and the number of patients under restraint;
- (c) the sufficiency of its staff; and
- (d) any matter he deems proper. 1954, c. 50, s. 7.

8. If it appears to a mental health officer that a patient is detained without sufficient cause, he shall discuss the fitness of the patient with the superintendent of the hospital or an attending medical practitioner and if satisfied that the patient ought to be discharged shall so order in writing and the patient shall be discharged accordingly. 1954, c. 50, s. 8.

Discharge  
of patient  
on order  
of mental  
health  
officer

9. The superintendent of every hospital in which mental health accommodation is established,

Records and  
reports

- (a) shall keep such books, records and forms with respect to patients therein; and
- (b) shall submit to the Director reports giving such information with respect to each person who received treatment for psychiatric disorders therein,

as may be prescribed by the regulations or as the Director may require. 1954, c. 50, s. 9.

10. Where a mental health officer, after an inspection, reports that the accommodation or facilities for the treatment of patients in any mental health accommodation that comprises a detention unit or an observation unit approved under *The Mental Hospitals Act* is unsatisfactory, the Minister may revoke the approval thereto and thereafter the accommodation shall not be used as a detention unit or observation unit, as the case may be. 1954, c. 50, s. 10.

Unsatisfactory  
accommoda-  
tion or  
facilities  
in accom-  
modation  
R.S.O. 1960,  
o. 236

11. Nothing in this Act shall be deemed to authorize the detention or restraint of any person where such detention or restraint is not authorized by an Act of the Legislature or is not otherwise lawfully authorized. 1954, c. 50, s. 11.

Act does not  
authorize  
detention

Powers and  
duties  
additional  
to those  
under  
R.S.O. 1960,  
c. 322

**12.** Nothing in this Act or the regulations shall be deemed to derogate from any of the provisions of *The Public Hospitals Act* and regulations made thereunder and any powers given or duties imposed by this Act or the regulations shall be deemed to be in addition to the powers and duties under *The Public Hospitals Act* and regulations made thereunder. 1954, c. 50, s. 12.

Regulations

**13.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the powers and duties of the Director and mental health officers in respect of any matter mentioned in this Act;
  - (b) in respect of mental health accommodation,
    - (i) prescribing the times and extent of inspection thereof and providing for the visitation of patients therein,
    - (ii) prescribing the accommodation, facilities and equipment thereof,
    - (iii) prescribing the forms, records, clinical records, books, returns and reports to be made and kept in connection therewith and providing for returns, reports and information to be furnished to the Director,
    - (iv) providing for staff and employees and qualifications of staff and employees therein, and
    - (v) providing for the admission, treatment and discharge of patients and prescribing the forms therefor. 1954, c. 50, s. 13.
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## CHAPTER 236

**The Mental Hospitals Act**

## PART I

1. In this Act and the regulations, unless the context <sup>Interpre-</sup> otherwise requires, <sup>tation</sup>

- (a) "approved home" means a home to which patients may be released from a hospital or hospital school in the manner provided under this Act and the regulations;
- (b) "child" includes a son and daughter;
- (c) "Department" means the Department of Health;
- (d) "Deputy Minister" means the Deputy Minister of Health;
- (e) "examination unit" means a place to which a person may be sent for observation, care and treatment in the manner provided under this Act and the regulations;
- (f) "habitué" means an alcoholic or drug habitué;
- (g) "hospital" means a hospital under this Act and includes every approved home and examination unit connected therewith or forming part thereof;
- (h) "hospital school" means a school under this Act for mental defectives, and includes every approved home and examination unit connected therewith or forming part thereof;
- (i) "inspector" means an officer of the Department appointed as an inspector for any of the purposes of this Act and the regulations;
- (j) "institution" means a hospital, hospital school or an examination unit;
- (k) "mental defective" and "mentally defective person" means a person in whom there is a condition of arrested or incomplete development of mind, whether

arising from inherent causes or induced by disease or injury, and who requires care, supervision and control for his own protection or welfare or for the protection of others;

- (*l*) "mental deficiency" means the condition of mind of a mental defective;
- (*m*) "mentally ill person" means a person, other than a mental defective, who is suffering from such a disorder of the mind that he requires care, supervision and control for his own protection or welfare, or for the protection of others;
- (*n*) "mental illness" means the condition of mind of a mentally ill person;
- (*o*) "Minister" means the Minister of Health or such other member of the Executive Council as is charged for the time being with the administration of this Act;
- (*p*) "parent" includes a father and mother;
- (*q*) "patient" means a person admitted under this Act and the regulations to an institution;
- (*r*) "regulations" means the regulations made under this Act;
- (*s*) "steward" means an officer of the Department who is appointed as the steward of an institution;
- (*t*) "superintendent" means an officer of the Department who is appointed as the superintendent of an institution. R.S.O. 1950, c. 229, s. 1.

Application  
to certain  
institutions

**2.** This Act applies to such institutions as are designated from time to time by the regulations. R.S.O. 1950, c. 229, s. 2.

Names of  
hospitals

**3.—(1)** Every hospital under this Act shall be known as "The Ontario Hospital" followed by the name of the city or town at or near which such hospital is located, or such name as the Lieutenant Governor in Council may designate.

Names of  
hospital  
schools

**(2)** Every hospital school under this Act shall be known as "The Ontario Hospital School" followed by the name of the city or town at or near which such hospital school is located, or such name as the Lieutenant Governor in Council designates. R.S.O. 1950, c. 229, s. 3.

4. This Act does not apply to,

(a) a sanitarium under *The Private Sanitaria Act*;

(b) a psychiatric hospital under *The Psychiatric Hospitals Act*. R.S.O. 1950, c. 229, s. 4

Exempted  
from the  
Act  
R.S.O. 1960,  
c. 307  
R.S.O. 1960,  
c. 316

5.—(1) The Lieutenant Governor in Council may make Regulations such regulations as are necessary for carrying out this Act and for the efficient administration thereof.

(2) Without limiting the generality of subsection 1, the powers of the Lieutenant Governor in Council to make regulations in the manner set out therein extend to and include, Idem

(a) designating the institutions to which this Act applies;

(b) prescribing the district served and classes of patient to be treated in any institution;

(c) the powers and duties of the Deputy Minister;

(d) the appointment of superintendents, inspectors, stewards, assistants, clerks and other officers and employees and prescribing their powers and duties;

(e) regulating the inspection, superintendence, government, management, conduct, operation, maintenance, care and use of institutions and equipment;

(f) classifying institutions and prescribing their grades and standards;

(g) regulating the apprehension and admission of persons;

(h) regulating the care, treatment, maintenance, conduct, discipline, custody, transfer, probation, release, discharge and apprehension of patients;

(i) classifying patients and persons and exempting any class of patients or persons from any provision of this Act;

(j) prescribing the forms relating to patients and their admission to, maintenance in, transfer, release or discharge from institutions, and all other forms required for the carrying out of this Act and the regulations;

(k) prescribing the records, books, accounting systems, audits, reports and returns to be made and kept respecting institutions;

(l) regulating the financial business and affairs of institutions;



- (m) providing for the granting and withdrawing of certificates of approval to approved homes and examination units and fixing the fees payable therefor;
- (n) fixing the situation, construction and equipment of approved homes and examination units;
- (o) declaring that any institution or part thereof shall be exempt from any provision of this Act or of the regulations;
- (p) prescribing the charges that shall be paid by the persons liable for the maintenance of patients in institutions;
- (q) prescribing the amounts to be paid by the Department for the care and maintenance of patients in approved homes;
- (r) prescribing the amounts of contributions that may be made to public hospitals by the Minister under section 17 and the manner and conditions of making such contributions;
- (s) generally, the control of all other matters in any way relating to institutions, and respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 229, s. 5; 1951, c. 49, s. 1; 1960, c. 67, s. 1.

## PART II

### ADMINISTRATION AND CONTROL

Adminis-  
tration  
vested in  
the Depart-  
ment

**6.—(1)** The administration of this Act and of every institution thereunder is vested in the Department, and the Deputy Minister is the chief executive officer of the Department and is responsible to and subject to the control of the Minister.

Delegation  
of authority  
by Deputy  
Minister

(2) Where this Act and the regulations require or authorize the Deputy Minister to do any act, such act may be done by any person whom the Deputy Minister appoints to do such act. R.S.O. 1950, c. 229, s. 6.

Superin-  
tendent to  
control the  
institution

**7.—(1)** Subject to section 6, the superintendent of an institution is in charge of and has control over the institution for which he is appointed, and shall superintend the conduct and management of all its affairs and control all officers, clerks, servants and employees thereof and all the patients therein. R.S.O. 1950, c. 229, s. 7.

(2) Where this Act or the regulations require or authorize the superintendent of an institution to do any act, such act may be done by any person whom the superintendent appoints to do such act. 1960, c. 67, s. 2. Delegation of superintendent's powers and duties

**8.** The Lieutenant Governor in Council may appoint inspectors with such designations or titles as he deems expedient. R.S.O. 1950, c. 229, s. 8. Inspector

**9.** The financial business and affairs of an institution are in charge of the steward appointed thereto who is responsible to the superintendent of the institution. R.S.O. 1950, c. 229, s. 9. Steward

**10.—**(1) No action, prosecution or other proceeding shall be brought or be instituted against any officer, clerk, servant, or employee of the Department, or the Public Trustee, or against any other person for an act done in pursuance or execution or intended execution of any duty or authority under this Act or the regulations, or in respect of any alleged neglect or default in the execution of any such duty or authority, without the consent of the Attorney General. Consent of Attorney General for actions

(2) All actions and prosecutions against any person for anything done or omitted to be done in pursuance of this Act shall be commenced within six months after the act or omission complained of has been committed, and not afterwards. Limitation of actions

(3) No action lies against an institution or an officer, employee or servant thereof for a tort of a patient. R.S.O. 1950, c. 229, s. 10. Tort of patient

**11.—**(1) No person shall,

Offences

- (a) assist a patient in escaping or attempting to escape from an institution; or
- (b) do or omit an act for the purpose of aiding a patient in escaping or attempting to escape from an institution; or
- (c) abet or counsel a patient to escape; or
- (d) visit, assist, counsel or communicate with a patient after having been prohibited in writing from doing so by the Deputy Minister or a superintendent.

(2) Every one who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. Penalty

General  
penalties

(3) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction, where no penalty is specifically provided, is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1950, c. 229, s. 11, *amended*.

## PART III

## PATIENTS IN INSTITUTIONS

Applications  
for  
admission

**12.**—(1) Application for the admission of any person as a patient to an institution shall be made either verbally or in writing to the Deputy Minister or to a superintendent and no person shall be admitted to an institution until a direction has been issued by the Deputy Minister or a superintendent or other person in charge of an institution, and no person may present himself or be sent for admission to an institution until notice is received from the Deputy Minister or a superintendent that accommodation in an institution is available for the person.

Admission  
after  
notice  
issued

(2) Where a direction and notice have been issued under subsection 1, the person named therein shall present himself or be taken to the institution named therein and shall be admitted to the institution in accordance with the direction and notice. R.S.O. 1950, c. 229, s. 12.

Related  
practitioners  
not to issue  
certificates,  
etc.

**13.**—(1) Except as permitted by the regulations or by the Minister, no certificate or form required by this Act or the regulations with respect to any person shall be made, issued, given or signed by a medical practitioner who is by blood or marriage closely related to or connected with any other medical practitioner who makes, issues, gives or signs a certificate or form with respect to the same person.

Practitioner  
not to be  
related to  
person  
examined

(2) Except as permitted by the regulations or by the Minister, no certificate or form required by this Act or the regulations to be made, issued, given or signed by a medical practitioner respecting any person shall be made, issued, given or signed by a medical practitioner who is by blood or marriage closely related to or connected with such person. R.S.O. 1950, c. 229, s. 13.

Superin-  
tendent  
to be in  
charge of  
patients

**14.** Except as provided by this Act, the superintendent of an institution has full control over and the custody and care of the person of every patient in the institution and every patient shall be maintained, cared for, treated in, released and discharged therefrom only as is provided by this Act and the regulations. R.S.O. 1950, c. 229, s. 14.



**15.** No form required by this Act or the regulations shall upon an application, by way of *certiorari*, or motion to quash or *habeas corpus*, be held insufficient or invalid for any irregularity, informality or insufficiency therein or by reason of any defect of form or substance. R.S.O. 1950, c. 229, s. 15.

Forms not  
invalid for  
defects  
in form or  
substance

**16.—(1)** Where the superintendent of an institution reports to the Deputy Minister that a patient therein requires hospital treatment that cannot be supplied therein, the Deputy Minister has, if otherwise permitted by law, authority to transfer the patient to a public hospital for treatment that cannot be supplied in the institution and to return the patient to an institution when the patient has received such treatment as may be necessary. R.S.O. 1950, c. 229, s. 16 (1).

Transfers  
to public  
hospitals

(2) The charges for such hospital treatment shall be paid by the patient unless he is an indigent person, in which case the charges are payable in the same manner as charges for indigent patients are payable under *The Public Hospitals Act* or in such manner as is prescribed by the regulations. R.S.O. 1950, c. 229, s. 16 (2); 1951, c. 49, s. 2.

Charges

R.S.O. 1960,  
c. 322

(3) The Deputy Minister has authority to transfer any patient in an institution to a psychiatric hospital under *The Psychiatric Hospitals Act* for investigation or treatment, and to return the patient to an institution when the patient has received such investigation or treatment as may be necessary.

Transfer to  
psychiatric  
hospital  
R.S.O. 1960,  
c. 315

(4) Where a patient has been transferred under subsection 1 or subsection 3, the superintendent of the institution to which he has been transferred has, in addition to any of the powers conferred upon him by the general or special Act under which the hospital operates, the power of a superintendent of an institution under this Act, with respect to the custody and control of the patient. R.S.O. 1950, c. 229, s. 16 (3, 4).

Control of  
transferee

**17.** The Minister, out of the moneys appropriated by the Legislature for the purpose, may contribute toward the cost of treatment in public hospitals of indigent patients transferred thereto under subsection 1 of section 16 in such amounts, in such manner and under such conditions as are prescribed by the regulations. 1951, c. 49, s. 3.

Contributions by  
Province

**18.—(1)** Where the Deputy Minister or an inspector is authorized by the Minister to institute an inquiry into the management or affairs of an institution, or into any matter in connection therewith, or into the truth of any returns made by any officer thereof and deems that any person should give evidence before him on oath, the Deputy Minister or the inspector has the same power to summon such person to

Special  
inquiry  
by Deputy  
Minister or  
inspector

attend as a witness, to enforce his attendance and to compel him to produce documents and to give evidence as a court in civil cases.

Inspector  
appointed  
under  
other Act

(2) An inspector appointed under any other Act, the administration of which is under the charge of the Minister, may when authorized by the Minister exercise the powers conferred by subsection 1 in respect of any hospital or other institution subject to such other Act. R.S.O. 1950, c. 229, s. 17.

## PART IV

### MENTALLY ILL AND MENTALLY DEFECTIVE PERSONS

Admission

**19.** Any person who is mentally ill may be admitted to an institution as a voluntary patient, and any person who is mentally ill or mentally defective may be admitted to an institution as,

- (a) a certificated patient;
- (b) a Deputy Minister's warrant patient;
- (c) a Lieutenant Governor's warrant patient;
- (d) a patient remanded by a judge or a magistrate in accordance with this Act and the regulations. R.S.O. 1950, c. 229, s. 18.

Financial  
statement

**20.** Upon the Public Trustee becoming committee of a patient in an institution, the superintendent shall immediately obtain the patient's financial statement and forward a copy thereof to the Public Trustee. 1960, c. 67, s. 3.

Voluntary  
patients,  
how  
admitted

**21.—(1)** The superintendent of an institution may receive and detain therein as a patient any person suitable for care and treatment who voluntarily makes written application in the prescribed form and whose mental condition, in the opinion of the superintendent, is such as to render him competent to make application.

Limit of  
period of  
detention

(2) Subject to section 27, a person so received shall not be detained more than five days after having given notice in writing of his desire to leave the institution.

When per-  
son not to  
be admitted  
as a  
voluntary  
patient

(3) No person shall be admitted as a voluntary patient who is,

- (a) a person suffering from mental illness or infirmity due to old age or from incurable disease for which general hospital or other institutional care is required;
- (b) a mental defective. R.S.O. 1950, c. 229, s. 19.

**22.—**(1) Any person who is or is believed to be in need of the observation, care and treatment provided in an institution may be admitted thereto for a period not exceeding thirty days with the permission of the Deputy Minister or the superintendent of the institution, on the certificate of one medical practitioner in the prescribed form accompanied by the prescribed history form. Admission to institution for 30-day period

(2) Such certificate is sufficient authority to any person to convey the person named therein to an institution and to the authorities of the institution for his detention therein for a period not exceeding thirty days. Effect of certificate

(3) Where a person has been admitted to an institution under this section, he shall be discharged, or certificated under section 27, as the needs of his case require, within the period mentioned in subsection 2. Discharge or certification

(4) Where a person has been admitted to an institution under this section and has been certificated, he thereafter is subject to this Act and the regulations respecting certificated patients. 1960, c. 67, s. 4. Effect of certification

**23.—**(1) Certificated patients shall be admitted to an institution upon the prescribed certificates of two medical practitioners, and in every case the history record in the prescribed form shall accompany such certificates. 1960, c. 67, s. 5. Certificated patients

(2) Every such certificate shall state and show clearly that the medical practitioner signing it personally examined the patient separately from any other medical practitioner and, after due inquiry into all the necessary facts relating to the case of the patient, found him to be mentally ill or mentally defective. Medical certificate

(3) Each medical practitioner shall also in such certificate state the facts upon which he has formed his opinion of the mental illness or deficiency, distinguishing the facts observed by him from the facts communicated to him by others, and every such certificate shall be signed in the presence of one subscribing witness who shall not be a physician issuing a certificate, and shall show the date upon which the examination was made. Contents

(4) No person shall be admitted as a certificated patient except within three months of the examination referred to in any certificate. R.S.O. 1950, c. 229, s. 20 (2-4). Limitation of certificate

**24.** Every certificate shall be completed within seven days of the examination referred to therein and shall be forwarded within fourteen days of the examination to the Department To be completed in 7 days and forwarded in 14 days



or to the superintendent of the institution in the district where the patient resides, together with all other material required by this Act and the regulations. R.S.O. 1950, c. 229, s. 21.

Authority  
to convey  
and detain

**25.** Subject to section 12, the certificate or certificates, when accompanied by the forms mentioned in subsection 1 of section 23, are sufficient authority to any person to convey the patient to the institution and to the authorities thereof to detain him therein, or to the authorities of any other institution to which the patient may have been or may be removed by the order of the Deputy Minister to detain him in such institution as long as he continues to be mentally ill or mentally defective. R.S.O. 1950, c. 229, s. 22.

Examina-  
tion of  
destitute  
person

**26.** In any municipality where a mentally ill or mentally defective person is in destitute circumstances and is a fit subject for hospital treatment, application may be made to the head of the municipality for an examination to be made and certificates given in accordance with section 23, and the head of the municipality, if satisfied that the person is in destitute circumstances, shall immediately notify two medical practitioners to make the required examination. R.S.O. 1950, c. 229, s. 23.

Certification  
of patient  
in an  
institution

**27.—(1)** Notwithstanding anything in subsection 2 of section 21, any mentally ill person who has been admitted as a voluntary patient or a habituate patient, or any person admitted under section 22 or 38, or any person detained under section 57, may be continued as a certificated patient upon the certificates of two medical practitioners with the accompanying history record in the prescribed form. 1960, c. 67, s. 6 (1).

Require-  
ments as to  
certificates

**(2)** At least one of the certificates required by subsection 1 shall be issued by a medical practitioner who is not an officer of the Department, and a certificate upon which any patient was admitted to an examination unit is not a certificate for the purpose of this section. 1960, c. 67, s. 6 (2).

Certificated  
patient

**(3)** Upon a person being certificated under this section, he is thereafter during the time he is a patient a certificated patient within the meaning of this Act and is subject to the provisions of this Act and the regulations respecting certificated patients. R.S.O. 1950, c. 229, s. 24 (3).

Warrant to  
apprehend  
mentally ill  
or mentally  
defective  
person

**28.—(1)** Where an information is laid before a justice of the peace that a person, within the limits of his jurisdiction, is or is suspected or believed by the person laying the information to be mentally ill or mentally defective, the justice of the

peace may issue his warrant in the prescribed form to apprehend the person and to cause him to be brought before a magistrate having jurisdiction.

(2) Every such warrant shall be under the hand of the justice of the peace issuing it and may be directed to all or any of the constables or other peace officers of the locality within which the justice has jurisdiction, and shall name or otherwise describe the person against whom the information has been laid, and shall state that information has been laid on oath that the person is mentally ill or mentally defective. <sup>Form of warrant</sup>

(3) The warrant shall order the person to whom it is directed to apprehend the person against whom the information has been laid and to bring him before a magistrate in order that inquiry may be made respecting the mental condition of the person and that he may be further dealt with according to law. <sup>Before whom returnable</sup>

(4) Any person apparently mentally ill or mentally defective and conducting himself in a manner that in a normal person would be disorderly, may be apprehended without a warrant by a constable or peace officer and detained in some safe and comfortable place until the question of his mental condition is determined as prescribed by section 31. <sup>Apprehension without warrant</sup>

(5) Where the person alleged to be mentally ill or mentally defective has been apprehended under a warrant or in the manner provided in subsection 4, he shall be brought before a magistrate and the magistrate may thereupon by his order in the prescribed form direct that the person be confined in a safe and comfortable place, or in the custody of the constable or other person who apprehended him, or such other safe custody as the magistrate deems fit, until the question of his mental condition is determined. R.S.O. 1950, c. 229, s. 25. <sup>Proceedings on apprehension</sup>

**29.**—(1) The Minister may appoint one or more legally qualified medical practitioners in any territorial division for the purposes of this section. R.S.O. 1950, c. 229, s. 26 (1). <sup>Appointment of medical examiner</sup>

(2) Within twenty-four hours after an alleged mentally ill or defective person is apprehended, he shall be brought before a magistrate or justice of the peace who shall thereupon notify one of such medical practitioners, if any have been appointed, and one other legally qualified medical practitioner, or, if no medical practitioner has been so appointed, the magistrate or justice of the peace shall notify two legally qualified medical practitioners and in either case shall cause an examination to be made within twenty-four hours of his appearance before the magistrate or justice of the peace or such longer <sup>Examination by two medical practitioners</sup>

period as may be necessary to perform the examination in the manner provided in section 23. 1959, c. 57, s. 1.

Hearing of  
evidence,  
inquiring  
among  
friends, etc.

**30.**—(1) A magistrate shall, at the sitting of his court next following the completion of the examination prescribed by section 29, hear such evidence upon oath as may be adduced with reference to the mental condition of the alleged mentally ill or mentally defective person, in addition to the examination prescribed in section 29, and shall direct that inquiry be made as to his friends or relatives in order that the evidence of some person or persons who is or are acquainted with his family and previous habits may be had, and for the purpose of ascertaining whether the alleged mentally ill or mentally defective person is possessed of any and what property, and where it is situate, and also as to the number of persons, if any, dependent upon him for support, and to elicit as far as possible all information in respect to the matters mentioned in the prescribed form, but, if the magistrate finds that such inquiries will be expensive or that sufficient information has been obtained by other means, he is not required to make the inquiries directed by this section. R.S.O. 1950, c. 229, s. 27 (1); 1959, c. 57, s. 2.

Adjourn-  
ment of  
inquiry

(2) The magistrate may from time to time adjourn the inquiry and again commit the person to custody, as prescribed by subsection 5 of section 28, until proper inquiry is made as directed by this section. R.S.O. 1950, c. 229, s. 27 (2).

Magistrate's  
certificate  
of mental  
illness or  
defect

**31.**—(1) If, after reasonable inquiry has been made by the magistrate as herein directed, he is satisfied that the alleged mentally ill or mentally defective person is mentally ill or mentally defective, he shall certify accordingly in the prescribed form.

Discharge  
or other  
disposition

(2) If both medical practitioners making the examination do not agree or if the magistrate is not satisfied that the person is mentally ill or mentally defective, the magistrate shall forthwith discharge him, or order such further examination as he deems expedient, or may remand him to an institution for a period not exceeding sixty days, in which case subsections 2, 3 and 4 of section 38 apply *mutatis mutandis*. R.S.O. 1950, c. 229, s. 28.

Magistrate's  
certificate,  
etc., to be  
sent to  
Deputy  
Minister

**32.**—(1) Where a person is found to be mentally ill or mentally defective, the magistrate shall immediately transmit to the Deputy Minister his certificate and the certificates of the medical practitioners and copies of the information, warrant and depositions taken before him, accompanied by a written statement of the result of his inquiries as to the financial condition of the mentally ill or mentally defective



person and the person or persons legally liable for his maintenance, and as to the other matters mentioned in the prescribed form, so far as ascertained, and giving the present address of the mentally ill or mentally defective person, and the name and address of the person in whose custody he is, and such further information as he deems advisable.

(2) The Deputy Minister, on receipt of such documents, shall arrange for the admission of the mentally ill or mentally defective person to an institution and shall issue a warrant in the prescribed form for his transfer thereto. R.S.O. 1950, c. 229, s. 29. Deputy Minister's warrant and removal to institution

**33.** A magistrate in making an inquiry has the like authority for compelling the attendance of witnesses as he would have if acting under *The Summary Convictions Act*, and all the provisions of that Act as to procedure apply as nearly as may be to proceedings under this Act. R.S.O. 1950, c. 229, s. 30. Application of R.S.O. 1960, c. 387

**34.** The Deputy Minister may, by warrant, transfer a patient from an institution to any other institution. R.S.O. 1950, c. 229, s. 31. Transfer of patient

**35.—(1)** The Lieutenant Governor, upon evidence satisfactory to him that a person imprisoned in a penal or reform institution for an offence under any statute of Ontario, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, is mentally ill, mentally deficient or epileptic, may order the removal of the person to a place of safe keeping, and the person shall remain there, or in such other place of safe keeping as the Lieutenant Governor from time to time orders, until his complete or partial recovery is certified to the satisfaction of the Lieutenant Governor, who may then order the person back to imprisonment if then liable thereto, or otherwise to be discharged, but, where the person is confined in an institution, he is, if and when he is not liable to imprisonment, subject to the direction of the Minister, or such other person as the Lieutenant Governor in Council designates, who may make such orders or directions in respect of the person as he deems proper. Lieutenant Governor's warrant

(2) Where the Lieutenant Governor has ordered the removal of a person under subsection 1, a record of the sentence of the person shall be sent to the Deputy Minister by the officer referred to in subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act*. R.S.O. 1950, c. 229, s. 32. Record of sentence to be sent to Deputy Minister R.S.O. 1960, c. 291

Warrant  
valid not-  
withstanding  
irregularity  
of prior pro-  
ceedings

**36.** A warrant for the removal of a mentally ill or mentally defective person to an institution may be issued notwithstanding any irregularity or insufficiency in the warrant or order under which the person is imprisoned or confined or in any of the proceedings before the magistrate. R.S.O. 1950, c. 229, s. 33.

Deportation

**37.** Upon its appearing to the Lieutenant Governor that a mentally ill, mentally defective or epileptic patient detained in an institution has come or been brought into Ontario from elsewhere within thirty days prior to his committal to the institution, the Lieutenant Governor may, by his warrant, authorize the removal of the person to the province or country from which he has so come or been brought. R.S.O. 1950, c. 229, s. 34.

Remand by  
judge or  
magistrate

**38.**—(1) Any person may be admitted to an institution upon the order of a judge or magistrate if the person has been apprehended either with or without warrant and charged with any offence, if the order is accompanied by the prescribed history form and if the order is for a period of not more than sixty days, and any order made under this section shall direct that the person shall be conveyed to the institution most conveniently situated to the place where the order is made.

Superin-  
tendent's  
report

(2) Before the expiration of the time mentioned in such order, the superintendent shall report in writing as to the mental condition of the person to the judge or magistrate.

Certification

(3) Where in the opinion of the superintendent the person is mentally ill or mentally defective, he shall direct the examination of the person as provided for by section 27, and if the examining medical practitioners certify the person to be mentally ill or mentally defective, he shall be detained as a certificated patient and is subject to all the provisions of this Act and of the regulations respecting certificated patients.

Return of  
patient to  
court

(4) Where in the opinion of the superintendent the person is neither mentally ill nor mentally defective and where the superintendent has failed to obtain certificates in the prescribed form, he shall discharge the person to the custody of the court by which he was ordered to the institution. R.S.O. 1950, c. 229, s. 35.

#### PROBATION

Probation

**39.**—(1) If the superintendent considers it conducive to the recovery of a patient that the patient should be committed for a time to the custody of his family or friends, the superintendent may allow him to return on probation to them

upon receiving a written undertaking in the prescribed form by one or more of his family or friends that he or they will keep an oversight over him.

(2) If within six months from the release on probation the patient again becomes mentally ill or defective to such a degree that his confinement in an institution is necessary, the superintendent by whom he was released on probation or the Deputy Minister, may by warrant in the prescribed form directed to any constable or peace officer or other person, authorize and direct that the patient be apprehended and brought back to an institution, and the warrant is sufficient authority to anyone acting under it to apprehend the person named therein and to bring him back to an institution. Return from probation

(3) No person admitted to an institution on the warrant of the Lieutenant Governor shall be released on probation unless the Deputy Minister has certified to the superintendent that the person is no longer liable to be returned to imprisonment. Patients liable to imprisonment  
R.S.O. 1950, c. 229, s. 36.

**40.** A person who has been admitted to an institution and who is released on probation therefrom, shall for the purposes of this Act and the regulations for a period of six months from the date of the release or until he is discharged be and be deemed to continue as a patient in the institution in the same manner and to the same extent and be subject to the same control as if he were not so released but had remained in the institution. Application of the Act to Probationers  
R.S.O. 1950, c. 229, s. 37.

#### APPROVED HOMES

**41.** The Minister may issue certificates approving of any building, premises or place as an approved home for the reception of patients who are released from a hospital or hospital school into the custody of such home and entitling any person to receive into the approved home one or more patients as if such home had been established as a hospital under this Act. Certificate for approved home  
R.S.O. 1950, c. 229, s. 38.

**42.—(1)** If the superintendent considers it conducive to the recovery of a patient, the superintendent may place the patient in an approved home, subject to this Act and the regulations. Release of patients to approved homes

(2) No person admitted to an institution on the warrant of the Lieutenant Governor shall be placed in an approved home unless the Deputy Minister has certified to the superintendent that the person is no longer liable to be returned to imprisonment. Condition precedent to placing  
R.S.O. 1950, c. 229, s. 39.



Application  
of the Act  
to patients  
in approved  
homes

**43.** A patient admitted to an institution who is placed in an approved home shall for the purposes of this Act and the regulations be and be deemed to continue as a patient in the institution in the same manner and to the same extent and be subject to the same control as if he were not so released but had remained in the institution. R.S.O. 1950, c. 229, s. 40.

#### DISCHARGE

Voluntary  
patients

**44.**—(1) A voluntary patient shall be discharged from the institution in which he is a patient,

(a) when in the opinion of the superintendent it is in the interest of the patient or of the hospital that he be discharged; or

R.S.O. 1960,  
c. 307

(b) for admission to a sanitarium that is subject to *The Private Sanitaria Act*; or

(c) in accordance with the conditions upon which he was admitted.

Idem

(2) A voluntary patient may be discharged when default is made in payment of his maintenance. R.S.O. 1950, c. 229, s. 41.

Certificated  
patients

**45.** A certificated patient shall be discharged from the institution in which he is a patient,

(a) when in the opinion of the superintendent he is sufficiently recovered; or

(b) when, although not recovered, he may be admitted to a sanitarium that is subject to *The Private Sanitaria Act*. R.S.O. 1950, c. 229, s. 42.

Lieutenant  
Governor's  
and Deputy  
Minister's  
warrant  
patients

**46.**—(1) A patient who has been admitted to an institution on the warrant of the Lieutenant Governor or the Deputy Minister shall be discharged from the institution in which he is a patient,

(a) when in the opinion of the superintendent he is sufficiently recovered; or

(b) when, although not recovered, he may be admitted to a sanitarium that is subject to *The Private Sanitaria Act*.

Condition  
precedent  
to discharge

(2) The superintendent shall not discharge any person under this section unless the Deputy Minister has certified to the superintendent that the person is no longer liable to imprisonment. R.S.O. 1950, c. 229, s. 43.

**47.** The Deputy Minister may, upon the report of an inspector, direct that any patient in an institution whose mental condition is due to senility and whose conduct is recorded as quiet and harmless and who is a proper subject for care in a home for the aged, be discharged from the institution and placed in a home for the aged in the county in which he was a resident at the time of admission to the institution and the superintendent of the home for the aged shall admit the person and maintain him therein. R.S.O. 1950, c. 229, s. 44.

Removal  
of patients  
to homes  
for the aged

#### ESCAPE AND APPREHENSION

**48.**—(1) A patient admitted to an institution who escapes therefrom or who, contrary to this Act or the regulations, leaves or is taken away or removed therefrom may be apprehended at any time within sixty days from the day of his escape by any peace officer, police officer or constable or any person appointed by the superintendent or the Deputy Minister either without a warrant or upon a warrant in the prescribed form issued by the Deputy Minister or the superintendent.

Apprehen-  
sion of  
escaped  
patients

(2) A patient upon his apprehension under subsection 1 shall be taken to and confined in any place of detention and from thence and as speedily as possible be returned to an institution. R.S.O. 1950, c. 229, s. 45.

Detention  
pending  
return to  
institution

### PART V

#### HABITUES

**49.**—(1) The superintendent of an institution may receive and detain therein as a patient any habitue who voluntarily makes written application in the prescribed form if in the opinion of the superintendent he is, at the time of his admission, capable of appreciating the fact that he is to be admitted as a voluntary patient.

Voluntary  
admission

(2) Subject to section 27, such habitue may be detained in the institution for a period of one year and no longer, and it is a condition of his admission to the institution that he shall remain therein such length of time not exceeding one year as in the opinion of the superintendent is required, and before admission is awarded he shall sign a pledge agreeing and consenting to such specified condition, and to faithfully conform himself to all the rules and regulations of the institution while a patient therein. R.S.O. 1950, c. 229, s. 46, *revised*.

Time of  
detention

Commit-  
ment on  
judge's  
order

**50.**—(1) On petition verified by oath, presented to a judge in chambers of the county or district court of the county or district in which the alleged habitue resides, setting forth that the alleged habitue is a *bona fide* resident of Ontario, and is so given over to the use of alcohol or drugs that he is unable to control himself or is incapable of managing his affairs or squanders or mismanages his property, or places his family in danger of distress, or transacts his business prejudicially to the interests of his family or his creditors, or that he uses intoxicating liquors or drugs to such an extent as to render him dangerous to himself or others, or incurs the danger of ruining his health and shortening his life thereby, and praying that a hearing and examination of the matters and allegations set forth in the petition may be had, the judge shall direct that a copy of the petition, together with a notice of appointment in the prescribed form, be served upon the alleged habitue at least forty-eight hours before the time fixed for the hearing.

Who may  
petition

(2) Such petition may be made by any relative, whether by blood or affinity, or, if he has no relative in Ontario, by any friend of the alleged habitue or by the family medical attendant.

Inquiry

(3) The judge shall attend at the time and place named in the appointment and then and there proceed upon *viva voce* evidence to inquire into the matters and allegations set forth in the petition, and, whether or not the alleged habitue is in attendance or is represented, may proceed to inquire into the matters and allegations set forth in the petition if service of the appointment and a copy of the petition as required by subsection 1 is proven, and he may in his discretion adjourn the inquiry from time to time.

Where  
person  
petitioned  
against  
cannot  
appear

(4) Where at the time that service of the appointment and of the copy of the petition is sought to be served, the alleged habitue is confined in an institution under section 52 and is in the opinion of the superintendent suffering from the effects of alcohol or drugs to such a degree that he is incapable of appreciating the nature of such documents or is unable to attend before the judge on the return of the appointment, the superintendent shall report such facts to the judge in writing and the judge may, where he deems it expedient to do so, proceed with the inquiry in the absence of the alleged habitue.

Where the  
person is  
detained  
in an  
institution

(5) Where such an alleged habitue is detained in an institution under section 52, the judge may order that the person be there detained until a date not later than ten days after the completion of the inquiry.

Powers of  
judge

(6) The judge has the same powers as to summoning witnesses, enforcing their attendances and the production of



documents as in proceedings in the county or district court, and each party may retain counsel to conduct the proceedings and to examine witnesses.

(7) If the judge upon such inquiry finds the person petitioned against to be a habitue, and so given over to the use of alcohol or drugs as to render him unable to control himself or incapable of managing his affairs, or that on that account he squanders or mismanages his property, or places his family in danger of distress, or transacts his business prejudicially to the interests of his family or his creditors, or that he uses intoxicating liquors or drugs to such an extent as to render him dangerous to himself and others, or incurs the danger of ruining his health or shortening his life, the judge shall forthwith report the fact to the Deputy Minister, including in the report a statement that service as required by subsection 1 has been made, and with the report shall transmit the evidence taken accompanied by a written statement of the result of his inquiries as to the financial condition of the habitue, and the person or persons legally liable for his maintenance and giving the present address of the habitue and the name and address of the person in whose custody he is, and the names and addresses of such persons, if any, dependent upon him for support. <sup>Judge's report</sup>

(8) For the purposes aforesaid, the judge shall hear such evidence upon oath and may require that some person or persons who is or are acquainted with his family and previous habits be heard for the purpose of ascertaining whether the habitue is possessed of any and what property, and where it is situate, and also as to the number of persons, if any, dependent upon him for support. <sup>Hearing of evidence</sup>

(9) Upon receipt of the report and evidence, the Deputy Minister may by warrant direct the removal of the habitue to an institution to be placed under treatment and detained therein for a period not exceeding two years. <sup>Deputy Minister's warrant</sup>

(10) The judge may order that the habitue be confined in some safe and comfortable place, or such other custody as the judge deems fit, until such time as he is removed to an institution. <sup>Detention pending removal to institution</sup> R.S.O. 1950, c. 229, s. 47.

**51.**—(1) A person who is suffering from the effects of alcohol or drugs may be admitted to an institution and detained therein for a period not to exceed thirty days on the certificates of two medical practitioners in the prescribed form accompanied by the prescribed history form. <sup>Temporary commitment by two medical practitioners</sup>

(2) Every such certificate shall state and show clearly that the medical practitioner signing it personally examined such <sup>Form of medical certificate</sup>

person and as a result of such examination and of information communicated to him by other persons is of opinion that such person is suffering from the effects of alcohol or drugs to such a degree as to require hospital care.

## Contents

(3) Each medical practitioner shall also in such certificate state the facts upon which he has formed his opinion, distinguishing the facts observed by him from the facts communicated to him by others, and every such certificate shall be signed in the presence of one subscribing witness and shall show the date upon which the examination was made.

Limitation  
of  
certificate

(4) No person shall be admitted as an habituate patient upon any such certificate except within three days of the examination referred to therein. R.S.O. 1950, c. 229, s. 48.

Authority  
to convey  
and detain

**52.** The certificates when accompanied by the prescribed history form are sufficient authority for any one to convey such person to an institution, if permission, either verbally or in writing, for such admission has been obtained from the Deputy Minister or the superintendent, and are sufficient authority for the superintendent to detain the person named therein. R.S.O. 1950, c. 229, s. 49.

Discharge  
of habitues

**53.** The superintendent of an institution has full authority to discharge a patient who has been admitted to the institution as an habitue,

- (a) when in the opinion of the superintendent he is sufficiently recovered; or
- (b) when it is in the interest of the patient or of the hospital that he be discharged; or
- (c) for admission to a sanitarium that is subject to *The Private Sanitaria Act*; or
- (d) when default is made in payment of his maintenance. R.S.O. 1950, c. 229, s. 50.

R.S.O. 1960,  
c. 307

Provisions  
applicable  
to habitues

**54.** Sections 26, 27, 34, 39 to 43, 47 and 48 apply *mutatis mutandis* to habitues. R.S.O. 1950, c. 229, s. 51.

## PART VI

## EPILEPTICS

Provisions  
applicable  
to epileptics

**55.** The provisions of this Act relating to mentally ill persons apply *mutatis mutandis* to any person who is an epileptic. R.S.O. 1950, c. 229, s. 52.

## PART VII

## EXAMINATION UNITS

**56.** The Minister may issue certificates approving of any building, premises or place, or part of any building, premises or place, including any part of any hospital or hospital school, as an examination unit. R.S.O. 1950, c. 229, s. 53.

**57.**—(1) Any person who is or is believed to be in need of the observation, care and treatment provided in an examination unit may be admitted thereto for a period not exceeding thirty days with the permission of the Deputy Minister or superintendent, on the certificate of one medical practitioner in the prescribed form accompanied by the prescribed history form.

(2) Such certificate is sufficient authority to any person to convey the person named therein to the examination unit and to the authorities of the examination unit for his detention therein. R.S.O. 1950, c. 229, s. 54.

**58.** No patient shall remain in an examination unit for a period in excess of thirty days, but the Deputy Minister may extend the period for an additional sixty days in the case of a patient other than a patient who has been admitted under section 57. R.S.O. 1950, c. 229, s. 55.

**59.**—(1) Where a person has been admitted to and is a patient in an examination unit under section 57, he shall be discharged, or certificated under section 27, as the needs of his case require.

(2) Where a person has been so certificated, he shall be transferred to a hospital or hospital school and he is thereafter subject to this Act and the regulations with respect to patients in a hospital or hospital school. R.S.O. 1950, c. 229, s. 56.

## PART VIII

## DETENTION UNITS

**60.**—(1) In this Part, "public hospital" means a hospital approved under *The Public Hospitals Act*.

(2) The Minister may issue certificates approving any part of a public hospital as a detention unit. 1952, c. 56, s. 1, *part*.



Admission  
and  
detention

**61.** Any person who,

- (a) has been found or certified under this Act as mentally ill or mentally defective and is eligible for admission to an institution under this Act as,
  - (i) a certificated patient,
  - (ii) a Deputy Minister's warrant patient, or
  - (iii) a Lieutenant Governor's warrant patient; or
- (b) is a patient remanded by a judge or magistrate in accordance with this Act and the regulations; or
- (c) has been directed by a magistrate to be confined in a safe and comfortable place under subsection 5 of section 28,

may be admitted to and detained in a detention unit pending his transfer to an institution under this Act. 1952, c. 56, s. 1, *part*.

No admis-  
sion without  
application  
R.S.O. 1960,  
c. 322

**62.**—(1) Notwithstanding section 11 of *The Public Hospitals Act*, no person shall be taken to a detention unit for admission or admitted thereto until an application has been made and admission granted under subsections 2 and 3.

Application  
for admission

(2) Application for the admission of a person as a patient to a detention unit may be made verbally or in writing to the superintendent thereof or other person designated by the governing body of the public hospital.

Admission

(3) The superintendent of the public hospital or other person so designated shall refer the application for admission to a medical practitioner designated by the governing body of the public hospital and, if the medical practitioner certifies in the prescribed form that the prospective patient is suitable for admission to and detention in the detention unit, the superintendent may grant admission to the prospective patient.

Deputy  
Minister to  
be notified

(4) Within twenty-four hours after the admission of a person to a detention unit, the superintendent shall give notice thereof to the Deputy Minister. 1952, c. 56, s. 1, *part, revised*.

Powers of  
superin-  
tendent of  
public  
hospital

**63.**—(1) Where a patient has been admitted to a detention unit, the superintendent or other person in charge of the public hospital has, in addition to any of the powers conferred upon him by the general or special Act under which the hospital operates, the power of a superintendent of an institution under this Act with respect to the custody and control of the patient.

(2) No patient shall remain in a detention unit for a period in excess of twenty-one days. 1952, c. 56, s. 1, *part*. Limit in  
detention  
unit

**64.**—(1) The Minister may, out of the money appropriated by the Legislature for the purpose, pay grants to public hospitals by way of provincial aid for the care and maintenance of patients in detention units in public hospitals in accordance with the regulations made under *The Public Hospitals Act*. Grants  
R.S.O. 1960,  
c. 322

(2) The regulations mentioned in subsection 1 may prescribe that the liability imposed under section 16 of *The Public Hospitals Act* does not apply to a patient in a detention unit who is an indigent person or a dependant of an indigent person upon such terms and conditions as are prescribed by such regulations. 1952, c. 56, s. 1, *part*. Regulations

## PART IX

### OBSERVATION UNITS

**65.** In this Part,

Interpre-  
tation

- (a) "observation unit" means that part of a psychiatric unit in a public hospital approved under section 66;
- (b) "psychiatric unit" means that part of a public hospital established and maintained by the hospital for the purpose of examining, consulting for diagnosing, and treating patients suffering from psychiatric disorders;
- (c) "public hospital" means a hospital approved under *The Public Hospitals Act*. 1954, c. 51, s. 1, *part*.

**66.** The Minister may issue certificates approving a part of a psychiatric unit in a public hospital as an observation unit. 1954, c. 51, s. 1, *part*. Observation  
units

**67.** A person who is a patient in a psychiatric unit and who is or is believed to be suffering from a psychiatric disorder and to be in need of the observation, care and treatment provided in an observation unit may be admitted thereto and detained therein for a period not exceeding five days on the certificate of one medical practitioner in the prescribed form accompanied by the prescribed history form. 1954, c. 51, s. 1, *part*. Admission  
and  
detention

**68.**—(1) Notwithstanding section 11 of *The Public Hospitals Act*, no person shall be taken to an observation unit for No  
admission  
without  
application

admission or admitted thereto until an application has been made and admission has been granted in accordance with subsections 2 and 3.

Application  
for  
admission

(2) Application for the admission of a person as a patient to an observation unit may be made verbally or in writing to the superintendent thereof or other person designated by the governing body of the public hospital.

Admission

(3) The superintendent of the public hospital or other person so designated shall refer the application for admission to a medical practitioner designated by the governing body of the public hospital and, if the medical practitioner certifies in the prescribed form that the prospective patient is suitable for admission to and detention in the observation unit, the superintendent may grant admission to the prospective patient.

Deputy  
Minister to  
be notified

(4) Within twenty-four hours after the admission of a person to an observation unit, the superintendent shall give notice thereof to the Deputy Minister. 1954, c. 51, s. 1, *part*.

Powers of  
superin-  
tendent of  
public  
hospital

**69.** Where a patient has been admitted to an observation unit, the superintendent or other person in charge of the public hospital, in addition to any of the powers conferred upon him by the general or special Act under which the hospital operates, has the power of a superintendent of an institution under this Act with respect to the custody and control of the patient. 1954, c. 51, s. 1, *part*.

Limit in  
observation  
unit

**70.** No patient shall remain in an observation unit for a period in excess of five days, but the superintendent or other person designated by the governing body of the public hospital may extend the period for an additional five days on the certificate of a second medical practitioner in the prescribed form. 1954, c. 51, s. 1, *part*.

Bed capacity  
of observa-  
tion unit

**71.—**(1) The total bed capacity of an observation unit shall not exceed the ratio of one bed in the observation unit of the hospital for each five beds in the psychiatric unit thereof.

Number of  
patients in  
observation  
unit

(2) The number of patients admitted to and treated in an observation unit shall not at any time exceed the total bed capacity of the observation unit. 1954, c. 51, s. 1, *part*.

## PART X

### LIABILITIES OF MUNICIPALITIES, MAINTENANCE, PROPERTY

Liability of  
municipality

**72.—**(1) The necessary costs and expenses incurred under sections 26 to 32 and section 38 in determining the mental condition of a person, including a fee not exceeding \$10 and



a travelling allowance of 10 cents per mile of each medical practitioner who issues a certificate in respect of the person and the necessary expenses incurred in conveying the person to and from an institution, shall be paid by the municipality from which the person came or was sent to an institution. R.S.O. 1950, c. 229, s. 57 (1); 1954, c. 51, s. 2.

(2) Where the person is not in destitute circumstances, the costs and expenses may be recovered by the municipality from his estate or from him or the person liable for his maintenance. <sup>Recovery from estate, etc.</sup>

(3) Subject to subsection 2, where such costs and expenses are paid by a municipality in which the person did not actually reside at the time of his admission to an institution, they may be recovered by the municipality paying them from the municipality in which the person actually resided at the time of admission to an institution. <sup>Recovery from municipality where patient resided</sup>

(4) Such costs and expenses shall be reimbursed to the municipality by the county where the municipality paying the same is a part of the county for municipal purposes. R.S.O. 1950, c. 229, s. 57 (2-4). <sup>Reimbursement</sup>

**73.**—(1) Where the Deputy Minister has reason to believe that a mentally ill, mentally defective or epileptic person has been or may be deported into Ontario from a place outside Ontario, the Deputy Minister may issue a warrant in the prescribed form for the apprehension of the person and for his conveyance to an institution and for his admission and detention as a patient therein. <sup>Persons deported into Ontario</sup>

(2) The warrant is sufficient authority to any person to apprehend the person named therein and to convey him to an institution and to the authorities thereof to admit and detain him as a patient therein for a period not exceeding thirty days. <sup>Apprehension</sup>

(3) Within thirty days after the admission of any patient in accordance with this section, two medical practitioners who may be officers of the Department shall examine the patient and if they certify the patient to be mentally ill, mentally defective or epileptic he shall be detained as a certificated patient and is subject to all the provisions of this Act and the regulations respecting certificated patients. <sup>Examination of patient</sup>

(4) Where in the opinion of the examining practitioners the patient is not mentally ill, mentally defective or epileptic, the superintendent shall discharge the patient from the institution. R.S.O. 1950, c. 229, s. 58. <sup>Discharge</sup>

**74.**—(1) Upon due application for the admission of a person, the superintendent and steward of the institution shall <sup>Inquiry regarding estate</sup>

make a full and thorough inquiry respecting the estate, either in existence or in prospect, of the person and of its sufficiency, free from all claims of his family, to supply the means necessary for his maintenance and clothing in the institution as provided by the regulations.

Bond  
for maintenance

(2) The superintendent and steward shall where possible require from the person liable for maintenance of the patient an agreement or bond to secure the payment of the patient's maintenance, either in whole or in part, and the agreement or bond shall continue in force so long as the patient is maintained in an institution.

Liability  
limited

(3) Where the obligation is for a limited period, nothing herein extends the liability beyond the period limited.

Liability of  
patient's  
estate

(4) The giving of an agreement or bond in no way releases the estate of the patient from its obligation to maintain and clothe him in the institution as hereinafter provided. R.S.O. 1950, c. 229, s. 60.

Patient's  
liability

**75.** Every patient admitted to an institution who has at the time of his admission or subsequently comes into the possession of property is liable for his maintenance. R.S.O. 1950, c. 229, s. 61.

Liability for  
married  
women

**76.** Every person whose wife is a patient is liable for her maintenance. R.S.O. 1950, c. 229, s. 62.

Liability  
for child

**77.** A parent is liable for the maintenance of his child who is a patient. R.S.O. 1950, c. 229, s. 63.

Notice of  
liability

**78.—(1)** The steward of an institution shall send a written notice on the first day of each of the months of January, April, July and October to the person liable for payment of the maintenance of a patient, giving the date of the patient's admission to the institution and the amount that is due and owing for his maintenance as provided by the regulations, and in the notice a demand shall be made by the steward upon the person liable for payment of maintenance for such sum as is due and owing and the sum shall be paid forthwith on the demand.

Proof of  
notice and  
demand for  
payment

(2) In an action or other proceeding to recover a sum owing by a person, municipal corporation or the estate of a person for the maintenance of a patient, it is sufficient to prove that the steward sent the notice and demand for payment referred to in subsection 1 within the three months preceding the commencement of the action or other proceeding and no proof is required that any prior notices or demands for payment were sent. R.S.O. 1950, c. 229, s. 64.

**79.**—(1) In case of refusal or neglect to pay the sum so demanded, the Deputy Minister or any officer whom he designates may apply to a judge of the county or district court of the county or district in which the person liable to pay resides for an order for the payment of the amount then due. Application order for payment of maintenance

(2) Ten days notice of the application shall be given. Notice

(3) If the judge is satisfied that the person against whom the application is made is liable, he may make an order accordingly, and the order may be enforced in the same manner as a judgment of the court. Judge's order R.S.O. 1950, c. 229, s. 65.

**80.** Except as otherwise provided in this Part, the Public Trustee is *ex officio* the committee of the estate of every patient admitted to an institution until he is discharged therefrom. Public Trustee ex officio committee R.S.O. 1950, c. 229, s. 66.

**81.** If prior to or at the time a person is admitted as a patient in an institution the Supreme Court under *The Mental Incompetency Act* has appointed some person other than the Public Trustee to be the committee of the estate of the person, the Public Trustee shall not in such case be the committee unless he is subsequently appointed as such by the Supreme Court. Where committee appointed by Supreme Court R.S.O. 1960, c. 237

**82.** Notwithstanding that under *The Mental Incompetency Act* some person other than the Public Trustee has been appointed by the Supreme Court as the committee of the estate of a patient in an institution, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the place and stead of the person theretofore appointed, and on appointment the Public Trustee has and may exercise all the rights and powers conferred upon him by this Act with regard to the management of patients' estates. Appointment of Public Trustee instead of committee under R.S.O. 1960, c. 237

**83.** The Public Trustee is not the committee of the estate of, Where Public Trustee not committee

(a) a voluntary patient;

(b) a patient remanded by a judge or a magistrate in accordance with this Act and the regulations; or

(c) an habitue patient during the period he is admitted temporarily under section 51,

unless the patient in writing, signed and sealed by him, appoints the Public Trustee as committee or the Supreme Court appoints the Public Trustee as committee. 1960, c. 67, s. 7.



Appointment of committee by Supreme Court  
R.S.O. 1960, c. 237

**84.** If the Supreme Court at any time appoints a committee of the estate of a patient under *The Mental Incompetency Act* the Public Trustee thereupon ceases to be committee, and shall account for and transfer to the committee so appointed the estate of the patient that has come into his hands, retaining, however, so much as is due for the maintenance of the patient. R.S.O. 1950, c. 229, s. 70.

Consent of Public Trustee

**85.** An order shall not be made for the appointment of a committee of a patient in an institution without the consent of the Public Trustee, unless five days notice has previously been given to him. R.S.O. 1950, c. 229, s. 71.

Acts of Public Trustee not affected

**86.** The acts of the Public Trustee while committee of a patient are not rendered invalid by the making of an order appointing another committee. R.S.O. 1950, c. 229, s. 72.

Where no action without leave

**87.** No person, other than the Public Trustee, shall bring an action as next friend of a person of whose estate the Public Trustee is committee under this Act or an order made under this Act without the leave of a judge of the Supreme Court, and the Public Trustee shall be served with notice of the application for such leave. 1960, c. 67, s. 8.

When service of process to be made on Public Trustee

**88.** When an action or proceeding is brought or taken against a patient in an institution for whom a committee has not been appointed by the Court and such action or proceeding is in connection with the estate of such person, the writ or other document by which the proceedings are commenced and any other document requiring personal service shall be served upon the Public Trustee endorsed with a written statement of the name of the institution in which the patient is detained, and shall also be served upon the patient, unless in the opinion of the superintendent of the institution personal service upon the patient would cause serious harm to him by reason of his mental condition, in which case it shall also be served upon the superintendent. R.S.O. 1950, c. 229, s. 73.

Powers of Public Trustee

**89.** The Public Trustee as statutory committee of a patient has and may exercise all the rights and powers with regard to the estate of the patient that the patient would have if of full age and of sound and disposing mind. R.S.O. 1950, c. 229, s. 74.

Nature of proceeds of sale, mortgage, etc.

**90.** A person of whose estate the Public Trustee is committee under this Act or an order made under this Act and his heirs, executors, administrators, next of kin, legatees, devisees and assigns shall have the same interest in any money

or other property, real or personal, arising from a sale, mortgage, exchange or other disposition by the Public Trustee acting as such committee as they would have had in the property the subject of the sale, mortgage, exchange or other disposition if no sale, mortgage, exchange or other disposition had been made, and the surplus money or property shall be of the same nature as the property sold, mortgaged, exchanged or disposed of. 1960, c. 67, s. 9, *part*.

**91.** Upon the Public Trustee becoming committee under this Act or an order made under this Act of the estate of a person, every power of attorney of such person is void. 1960, c. 67, s. 9, *part*. When power of attorney void

**92.** Any recital in a lease, mortgage or conveyance that the patient is in an institution and that the Public Trustee is his statutory committee is admissible in evidence as *prima facie* proof of the facts recited. R.S.O. 1950, c. 229, s. 75, *amended*. Recitals in documents

**93.** The powers conferred upon the Public Trustee as statutory committee of the estate of a patient may be exercised, Purposes for which powers of Public Trustee may be exercised

- (a) notwithstanding that the patient has been released upon probation or has been placed in an approved home;
- (b) to carry out and complete any transaction entered into by the patient before he became a patient in an institution;
- (c) to carry out and complete any transaction entered into by the statutory committee notwithstanding that the patient has been discharged or has died after the transaction was commenced. R.S.O. 1950, c. 229, s. 76.

**94.—(1)** The costs, charges and expenses of the Public Trustee, including the costs, charges and expenses of or arising from or out of the passing of his accounts, whether before or after the discharge or death of a person of whose estate he is committee under this Act or an order made under this Act, and any moneys advanced or liability incurred by him for or on behalf of such person or for the maintenance of such person's family are a lien upon the real and personal property of such person. Lien for costs, etc.

(2) In the case of real property, the Public Trustee may register in the proper registry or land titles office a certificate under his hand and seal of office giving notice of the lien claimed and the real property against which it is claimed. Notice of lien, real property

Withholding  
moneys to  
secure costs

(3) Where the Public Trustee is proceeding to have his accounts passed after the discharge or death of a person referred to in subsection 1, the Public Trustee may withhold sufficient moneys from the person's estate to adequately secure the costs of or arising from or out of the passing of such accounts. 1960, c. 67, s. 10.

When gifts,  
grants, etc.,  
deemed  
fraudulent

**95.** Every gift, grant, alienation, conveyance or transfer of property made by a person who is or becomes a patient in an institution shall be deemed to be fraudulent and void as against the statutory committee, if the same is not made for full and valuable consideration actually paid or sufficiently secured to such person, or if the purchaser or transferee had notice of his mental condition. R.S.O. 1950, c. 229, s. 78.

Case of  
death of  
patient

**96.** Upon the death of a patient, the Public Trustee may, until probate of the will or letters of administration to the estate of the patient is granted to some other person and notice is given to the Public Trustee, continue to manage the estate and may exercise with respect thereto the powers that an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue. R.S.O. 1950, c. 229, s. 79.

Accounting  
by Public  
Trustee

**97.** The Public Trustee is liable to render an account as to the manner in which he has managed the property and effects of the patient in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and is entitled from time to time to bring in and pass his accounts and tax costs in like manner as a trustee but is personally liable only for wilful misconduct. R.S.O. 1950, c. 229, s. 80.

Compensation of  
Public  
Trustee

**98.** For the services rendered by the Public Trustee as committee of a patient, he may be allowed compensation not exceeding the amount that a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation. R.S.O. 1950, c. 229, s. 81.

Continuance  
of committee-  
ship

**99.** Where a person discharged from an institution may not, in the opinion of the Public Trustee based upon the report of the superintendent of the institution, be competent to manage his affairs or such person has refused or neglected to take his property or any part thereof from the Public Trustee, the Public Trustee may apply to the Supreme Court for directions as to the disposal of such property, and the



court may make such order in the premises as it deems just, and may in its discretion order that the Public Trustee continue to administer the estate of such discharged patient with all the rights and powers that the Public Trustee would have had under this Act if the person had not been discharged from the institution. 1960, c. 67, s. 11.

**100.** The Public Trustee shall, out of the money in his hands belonging to a patient for whom he is statutory committee, pay the proper charges for his maintenance in the institution in which he is a patient, and he may also pay such sums as he deems advisable to the patient's family or other person dependent upon him, and the payments for the maintenance of the family and other dependants may be made notwithstanding that such payments may prevent the payment of maintenance that otherwise would be due from the patient. R.S.O. 1950, c. 229, s. 83.

Payment of  
charges for  
maintenance  
of patient

**101.** If there is any money in court to the credit of a patient, it shall be paid out to the Public Trustee upon his written application, and it is not necessary to obtain an order of the court or a judge for such purpose. R.S.O. 1950, c. 229, s. 84.

Payment of  
money out  
of court

**102.** Nothing in this Act makes it the duty of the Public Trustee to institute proceedings on behalf of a patient or to intervene in respect of his estate or any part thereof or to take charge of any of his property. R.S.O. 1950, c. 229, s. 85; 1960, c. 67, s. 12.

Statutory  
duty

**103.—(1)** Where a mentally ill, mentally defective or epileptic person is detained as a patient in a provincial institution in another province and has estate situate in Ontario, the Lieutenant Governor in Council may appoint the official of the other province who is charged with the duty of managing the estate of such person in the other province to be committee of the estate in Ontario.

Official of  
other  
province  
committee  
in Ontario

**(2)** The order making the appointment is conclusive proof that all the conditions precedent to the appointment have been fulfilled.

Order con-  
clusive  
proof as to  
appointment

**(3)** The appointee under such an order possesses the same rights, powers, privileges and immunities as are conferred by this Act upon the Public Trustee and he is subject to the same obligations and shall perform the same duties. 1952, c. 56, s. 2.

Powers and  
duties of  
appointee

## PART XI

## MENTAL HEALTH CLINICS

Establishment

**104.** Subject to the provisions of this Act and the regulations, the Department has power and authority to establish clinics known as "Mental Health Clinics". R.S.O. 1950, c. 229, s. 87.

Officer in charge

**105.** The Minister has authority to appoint an officer who is a duly qualified medical practitioner to be in charge of each clinic with such title as the Minister designates. R.S.O. 1950, c. 229, s. 88.

Staff

**106.** The staff of each clinic, in addition to the officer designated under section 105, shall consist of an assistant trained in psychology, an assistant trained in social service, and such other assistants as are provided for by the regulations. R.S.O. 1950, c. 229, s. 89.

Expenses

**107.** All salaries, remuneration and expenses of the clinics and of their officers, clerks and servants shall be paid out of the Consolidated Revenue Fund upon the certificate of the Minister or of an officer of the Department designated by him for the purpose. R.S.O. 1950, c. 229, s. 90.

Powers of clinics

**108.** Subject to the direction of the Deputy Minister, a mental health clinic may do any act or perform such services that by law the Department is permitted or authorized to do. R.S.O. 1950, c. 229, s. 91.

Authority to conduct examinations

**109.** Notwithstanding section 108, a mental health clinic has authority to conduct an examination of the physical and mental condition of,

- (a) any person, other than an infant, who applies for examination; and
- (b) any infant, upon the verbal or written request of his parent; and
- (c) any person who is sent by an organization approved by the Deputy Minister, where the person has first given his consent to examination; and
- (d) any person on the order of a magistrate. R.S.O. 1950, c. 229, s. 92.

Examination of pupils

**110.—(1)** Subject to this section, a mental health clinic has authority to conduct an examination of the physical and mental condition of any or all pupils of any elementary or

secondary school as defined in *The Schools Administration Act*. R.S.O. 1950, c. 229, s. 93 (1), amended. R.S.O. 1960, c. 361

(2) Such examination shall be conducted only on the request in writing of the board of public school trustees, board of separate school trustees, board of education, or other board having control of the school in which the examination is requested to be conducted. Request of board of trustees, etc., necessary

(3) The consent in writing of the parent for such examination must first be obtained, and a consent for medical examination according to *The Public Schools Act* and regulations is consent for the purposes of this section. Consent of parent R.S.O. 1960, c. 360

(4) The officer in charge of the clinic shall report the results of an examination under this section to the Minister of Education and to the Minister of Health, and the officer may report such results to the parent. R.S.O. 1950, c. 229, s. 93 (2-4). Report of examination of pupils

**111.**—(1) Examinations under this Part may be conducted in any place that the officer in charge of the clinic deems expedient. Where examination to be held

(2) Examinations under section 110 may be conducted in any of the schools referred to therein, at such time or times as the person in charge of the school designates as convenient. R.S.O. 1950, c. 229, s. 94. May be held in schools

**112.** Subject to the direction of the Minister, a mental health clinic upon the request of any person, body, group, organization or corporation has authority to give advice on matters pertaining to mental health and mental disease or matters reasonably ancillary thereto. R.S.O. 1950, c. 229, s. 95. Authority to give advice

**113.** The officer in charge of a mental health clinic may report the results of an examination under section 109 to, Report of examination

- (a) the Department;
- (b) the person examined;
- (c) any person or organization upon whose order or request the examination was undertaken;
- (d) any person who, in the opinion of such officer, has a *bona fide* interest in the person examined,

and, subject to this section, the records of a mental health clinic are not open to public inspection. R.S.O. 1950, c. 229, s. 96.



## PART XII

## AGREEMENT BETWEEN ONTARIO AND CANADA

Agreement  
authorizedR.S.C. 1952,  
c. 80

**114.**—(1) The Lieutenant Governor in Council may authorize an agreement with Her Majesty the Queen in right of Canada represented by the Minister of Veterans Affairs or the minister of such other department of the Government of Canada as is from time to time charged with the care and treatment of insane, epileptic, mentally ill or mentally defective former members of Her Majesty's naval, military or air forces or other persons who are eligible for treatment under the *Department of Veterans Affairs Act* (Canada) whereunder that department shall, subject to regulations not inconsistent with this Act appended to and forming part of the agreement, establish, operate, maintain, control and direct, in Ontario, institutions within the meaning of this Act, for the care, treatment and detention of such former members of the forces and others eligible for treatment under the *Department of Veterans Affairs Act* (Canada) and who are insane, epileptic, mentally ill or mentally defective within the meaning of this Act and may authorize such alterations in or amendments to such agreement as from time to time appear necessary or desirable.

Regulations

(2) Any regulations adopted by the parties to any such agreement have the same force and effect as if enacted in this Act.

Idem

(3) Without limiting the generality of subsection 1, the authority to adopt regulations extends to and includes,

- (a) regulating the admission, commitment and detention of such members to such institutions, notwithstanding any provision to the contrary in any Act of the Legislature dealing with the care, treatment or detention of insane, epileptic, mentally ill or mentally defective persons, and for greater certainty but not so as to restrict the generality of the foregoing terms, the Lieutenant Governor in Council may exempt the said department from such of the provisions of the said Acts as he deems inapplicable and may authorize the said department by its officers or servants to do such acts and things as by any Act of the Legislature dealing with the care, treatment or detention of insane, epileptic, mentally ill or mentally defective persons are required or authorized to be done by officers or servants of Ontario or by a justice or justices of the peace or other judicial authority;
- (b) regulating the care, treatment, maintenance, conduct, discipline, custody, transfer, probation, release, dis-

charge and apprehension in such institutions of persons the care, treatment or detention of which is the subject matter of such agreement;

- (c) prescribing the forms relating to such persons and to their admission to, maintenance in and release or discharge from such institutions and all other forms required for the carrying out of this Act and such agreement;
- (d) the transfer of any such member from any place outside Ontario to any other place outside Ontario and from any place within Ontario to any place outside Ontario and from any place outside Ontario to any place within Ontario during the passage of such member through Ontario;
- (e) generally, the control of all matters the subject matter of such agreement.

(4) The detention of any such member by the said Minister by virtue of and in accordance with any authority conferred by any Act of the Legislature or agreement with the Government of Ontario shall be deemed to be legal and valid notwithstanding anything in this Act. R.S.O. 1950, c. 229, s. 97. Detention  
under other  
authority  
not invalid

**115.** The Public Trustee is *ex officio* committee of the Committee estate of every patient who has no other committee and who is detained in an institution under this Part, and sections 80 to 103 apply to the institutions under this Part and the patients therein. R.S.O. 1950, c. 229, s. 98.





## CHAPTER 237

**The Mental Incompetency Act****1. In this Act,**Interpre-  
tation

- (a) "contingent right", as applied to land, includes a contingent and an executory interest, a possibility coupled with an interest whether the object of the gift or limitation or such interest or possibility is or is not ascertained, and a right of entry whether immediate or future and whether vested or contingent;
- (b) "convey" and "conveyance", applied to a person, mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seised, or in which such person is entitled to a contingent right, either for the whole estate of such person or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance;
- (c) "court" means the Supreme Court;
- (d) "land" includes messuages, tenements, and hereditaments, corporeal and incorporeal of every tenure or description, whatever may be the estate or interest therein, and whether entire or undivided;
- (e) "mentally incompetent person" means a person,
  - (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or
  - (ii) who is suffering from such a disorder of the mind,  
that he requires care, supervision and control for his protection and the protection of his property;
- (f) "mental incompetency" means the condition of mind of a mentally incompetent person;
- (g) "mortgage" includes every interest or property in real or personal estate that is a security for money or money's worth;

- (h) "possessed" is applicable to any vested estate less than a life estate at law or in equity, in possession or in expectancy in any land;
- (i) "seised" is applicable to any vested interest for life or of a great description, and extends to estates at law and in equity in possession or in futurity in any land;
- (j) "stock" includes shares and any fund, annuity or security transferable in books kept by a company or society, or by instrument of transfer alone, or by instrument of transfer accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Acts relating to merchant shipping;
- (k) "trust" and "trustee" include implied and constructive trusts and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage. R.S.O. 1950, c. 230, s. 1.

#### JURISDICTION OF COURT

Powers of  
the court  
R.S.O. 1960,  
c. 236

**2.—**(1) Subject to *The Mental Hospitals Act*, the court has all the powers, jurisdiction and authority of Her Majesty over and in relation to the persons and estates of mentally incompetent persons, including the care and the commitment of the custody of mentally incompetent persons and of their persons and estates.

Orders of  
court

(2) The court may make orders for the custody of mentally incompetent persons and the management of their estates, and every such order takes effect, as to the custody of the person, immediately and, as to the custody of the estate, upon the completion of the committee's security. R.S.O. 1950, c. 230, s. 2.

Exercise of  
powers

**3.** The powers conferred by this Act upon the court may be exercised by a judge thereof in chambers. R.S.O. 1950, c. 230, s. 3.

Delegation  
of powers

**4.** The court may delegate to a master, official referee or other officer all or any of the powers of the court under this Act, except the making of a declaration of mental incompetency. R.S.O. 1950, c. 230, s. 4.

## DECLARATION OF MENTAL INCOMPETENCY

5.—(1) The court upon application supported by evidence may by order declare a person a mentally incompetent person if the court is satisfied that the evidence establishes beyond reasonable doubt that he is a mentally incompetent person. Declaration of mental incompetency

(2) The application may be made by the Attorney General, by any one or more of the next of kin of the alleged mentally incompetent person, by his or her wife or husband, by a creditor, or by any other person. By whom application to be made

(3) The alleged mentally incompetent person and any person aggrieved or affected by the order has the right to appeal therefrom. Appeal

(4) The practice and procedure on the appeal shall be the same as on an appeal from an order made by a judge of the court. R.S.O. 1950, c. 230, s. 5. Procedure

6.—(1) Where in the opinion of the court the evidence does not establish beyond reasonable doubt the alleged mental incompetency, or where for any other reason the court deems it expedient so to do, instead of making an order under subsection 1 of section 5, the court may direct an issue to try the alleged mental incompetency. Issue to try the alleged mental incompetency

(2) Subject to section 7, the issue shall be tried with or without a jury as the court directing it or the judge presiding at the trial orders. Method of trial

(3) The trial shall take place at such time and place as the court directs. Time and place

(4) On the trial of the issue the alleged mentally incompetent person, if within the jurisdiction of the court, shall be produced, and shall be examined at such time and in such manner, either in open court or privately, and, where the trial is with a jury, before the jury retire to consider their verdict, as the presiding judge directs, unless the court by the order directing the issue or the judge presiding at the trial dispenses with the production of the mentally incompetent person or with his examination. Production of mentally incompetent person

(5) On the trial of the issue the inquiry shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of the inquiry a mentally incompetent person and incapable of managing himself or his affairs, and the presiding judge shall make an order in accordance with the result of the inquiry. Scope of inquiry

(6) The practice and procedure as to the preparation, entry for trial and trial of the issue, and all the proceedings incidental Procedure



thereto, shall be the same as in the case of any other issue directed by the court or a judge.

**Appeal**

(7) The alleged mentally incompetent person and any person aggrieved or affected thereby have the like right to move against a verdict or to appeal from an order made upon or after the trial as may be exercised by a party to an action in the court including the right of appeal, and the court hearing any such motion or appeal has the same powers as upon a motion against a verdict or an appeal from a judgment entered at or after the trial of an action.

**Finality**

(8) Subject to section 9, the order or judgment of the court or, where the issue is tried by a jury, the verdict of the jury is final unless set aside upon appeal or motion under subsection 7. R.S.O. 1950, c. 230, s. 6.

**Trial  
by jury**

**7.** An alleged mentally incompetent person is entitled to demand, by notice in writing to be given to the person applying for the declaration of his mental incompetency and also to be filed in the office of the Registrar of the Supreme Court, Toronto, at least ten days before the first day of the sittings at which the issue is directed to be tried, that any issue directed to determine the question of his mental incompetency shall be tried with a jury, and, unless he withdraws the demand before the trial, or the court is satisfied by personal examination of the mentally incompetent person that he is not mentally competent to form and express a wish for a trial by jury and so declares by order, the issue shall be tried by a jury. R.S.O. 1950, c. 230, s. 7.

**Examination  
of alleged  
mentally  
incompetent  
person**

**8.—(1)** For the purposes of the examination mentioned in section 7, or where it is deemed proper for any other purpose, the court may require the alleged mentally incompetent person to attend at such convenient time and place as the court appoints.

**Order for  
medical  
examination**

(2) The court may by order require an alleged mentally incompetent person to attend and submit to examination by one or more medical practitioners at such time and place as the order directs. R.S.O. 1950, c. 230, s. 8.

**SUPERSEDING DECLARATION OF MENTAL INCOMPETENCY****Application  
to supersede  
declaration  
of mental  
incom-  
petency**

**9.—(1)** Upon application at any time after the expiration of one year from the date of the order by which a person has been declared a mentally incompetent person, or sooner by leave of the court, if satisfied that the person has become mentally competent and capable of managing his own affairs, may make an order so declaring.

(2) Any such order is subject to appeal as provided by Appeal subsections 3 and 4 of section 5.

(3) Instead of making an order under subsection 1, the court may direct an issue to try the question of the recovery of the person so formerly declared or adjudged a mentally incompetent person. <sup>Directing issue as to recovery</sup>

(4) Any issue so directed is subject to sections 6 and 7. <sup>Application of ss. 6 and 7</sup>

(5) Where a person formerly declared a mentally incompetent person has been found to be mentally competent and capable of managing his own affairs and the time for appealing from or moving against the order or verdict has expired, or if an appeal is taken or a motion made, when the same has been finally dismissed, an order may be issued superseding, vacating, and setting aside the order declaring the mental incompetency of the person for all purposes except as to acts or things done in respect of the person or estate of the mentally incompetent person while the order was in force. R.S.O. 1950, c. 230, s. 9. <sup>Order superseding declaration of mental incompetency</sup>

#### COMMITTEES OF ESTATES OF MENTALLY INCOMPETENT PERSONS

**10.** Where a committee of the estate of a mentally incompetent person has been appointed, <sup>Duties:</sup>

- (a) the committee shall, within six months after being appointed, file in the office of the master to whom the matter is referred, or of such officer as is appointed for that purpose, a true inventory of the whole real and personal estate of the mentally incompetent person, stating the income and profits thereof, and setting forth the debts, credits, and effects of the mentally incompetent person, so far as they have come to the knowledge of the committee; <sup>inventory of present property</sup>
- (b) if any property belonging to the estate is discovered after the filing of the inventory, the committee shall file a true account of such property from time to time as it is discovered; <sup>also, of after discovered property</sup>
- (c) every inventory and account shall be verified by the oath of the committee; <sup>verification</sup>
- (d) the committee shall give security for the due performance of his duties in such amount as the court directs, which security shall be in the form of a bond in the name of the Accountant of the Supreme Court and shall be filed in his office; and

- (e) the committee shall pass his accounts from time to time at such intervals as the court directs. R.S.O. 1950, c. 230, s. 10; 1959, c. 58, s. 1.

#### MANAGEMENT AND ADMINISTRATION

Powers of court as to maintenance of mentally incompetent person or his family

**11.** The powers conferred by this Act as to the management and administration of a mentally incompetent person's estate are exercisable in the discretion of the court for the maintenance or benefit of the mentally incompetent person or of his family, or where it appears to be expedient, in the due course of management of the property of the mentally incompetent person. R.S.O. 1950, c. 230, s. 11.

Rights of creditors

**12.** Nothing in this Act subjects a mentally incompetent person's property to claims of his creditors further than it is now subject thereto by due course of law. R.S.O. 1950, c. 230, s. 12.

Power to raise money for certain purposes

**13.—(1)** The court may order that any property of the mentally incompetent person, whether present or future, be sold, charged, mortgaged, dealt with or disposed of as is deemed most expedient for the purpose of raising or securing or repaying, with or without interest, money that is to be or has been applied to,

- (a) payment of the mentally incompetent person's debts or engagements;
- (b) discharge of any encumbrance on his property;
- (c) payment of any debt or expenditure incurred for his maintenance or otherwise for his benefit;
- (d) payment of or provision for the expenses of his future maintenance.

Terms of charge or mortgage

**(2)** Where a charge or mortgage is made under this Act for the expenses of future maintenance, the court may direct the same to be payable either contingently if the interest charged is contingent or future, or upon the happening of the event if the interest is dependent on an event that must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as are deemed expedient. R.S.O. 1950, c. 230, s. 13.

Charging mentally incompetent person's estate for permanent improvements

**14.—(1)** The court may order that the whole or a part of any moneys expended or to be expended under an order of the court for the permanent improvement, security, or advantage of the property of the mentally incompetent



person, or of a part thereof, shall, with interest, be a charge upon the improved property or any other property of the mentally incompetent person, but so that no right of sale or foreclosure during the lifetime of the mentally incompetent person is conferred by the charge.

(2) The interest shall be kept down during the mentally incompetent person's lifetime out of the income of his general estate, as far as his general estate is sufficient to bear it. <sup>Interest, how to be met</sup>

(3) The charge may be made either to a person advancing the money or, if the money is paid out of the mentally incompetent person's general estate, to a person as trustee for him as part of his personal estate. <sup>To whom charge to be made</sup> R.S.O. 1950, c. 230, s. 14.

**15.** The court may by order authorize and direct the committee of the estate of a mentally incompetent person to do all or any of the following things: <sup>Powers of committee under order of court</sup>

- (a) sell any property belonging to the mentally incompetent person;
- (b) make exchange or partition of any property belonging to the mentally incompetent person, or in which he is interested, and give or receive any money for equality of exchange or partition;
- (c) carry on any trade or business of the mentally incompetent person;
- (d) grant leases of any property of the mentally incompetent person for building, agricultural, or other purposes;
- (e) grant leases of minerals forming part of the mentally incompetent person's property, whether the minerals have been worked or not, and either with or without the surface or other land;
- (f) surrender any lease and accept a new lease;
- (g) accept a surrender of any lease and grant a new lease;
- (h) execute any power of leasing vested in a mentally incompetent person having a limited estate only in the property over which the power extends;
- (i) perform any contract relating to the property of the mentally incompetent person entered into by him before his mental incompetency;
- (j) surrender, assign, or otherwise dispose of with or without consideration any onerous property belonging to the mentally incompetent person;

- (k) exercise any power or give any consent required for the exercise of any power where the power is vested in the mentally incompetent person for his own benefit or the power of consent is in the nature of a beneficial interest in the mentally incompetent person;
- (l) give consent to the transfer or assignment of a lease where the consent of the mentally incompetent person to the transfer or assignment thereof is requisite;
- (m) invest or re-invest any money in his hands belonging to the mentally incompetent person in the classes of securities mentioned in section 26 of *The Trustee Act*. R.S.O. 1950, c. 230, s. 15; 1959, c. 58, s. 2.

R.S.O. 1960,  
c. 408

Property  
exchanged  
and renewed  
lease to be  
to same uses  
as before

**16.** Any property taken in exchange and any renewed lease accepted on behalf of a mentally incompetent person under this Act shall be to the same uses and be subject to the same trusts, charges, encumbrances, dispositions, devices, and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to. R.S.O. 1950, c. 230, s. 16.

Extent of  
leasing  
power

**17.—(1)** The power to authorize leases of a mentally incompetent person's property under this Act extends to property of which the mentally incompetent person is tenant in tail, and every lease granted pursuant to any order under this Act binds the issue of the mentally incompetent person and all persons entitled in remainder and reversion expectant upon the estate tail of the mentally incompetent person, including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the mentally incompetent person has the same rights and remedies against the lessee, his executors, administrators and assigns as the mentally incompetent person or his committee would have had.

Term

(2) Leases authorized to be granted or accepted by or on behalf of a mentally incompetent person under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants, and conditions as the court approves.

Premiums,  
etc., on  
renewal

(3) Premiums or other payments on the renewal of leases may be paid out of the mentally incompetent person's estate, or charged with interest on the leasehold property. R.S.O. 1950, c. 230, s. 17.

**18.**—(1) The mentally incompetent person, his heirs, executors, administrators, next of kin, devisees, legatees and assigns have the same interest in any money arising from any sale, mortgage or other disposition, under the powers of this Act, which may not have been applied under such powers, as he or they would have had in the property the subject of the sale, mortgage or disposition, if no sale, mortgage or disposition had been made, and the surplus money shall be of the same nature as the property sold, mortgaged or disposed of. Nature of proceeds of sale and mortgage

(2) Money received for equality of partition and exchange, or under any lease of unopened mines, and all premiums and sums of money received upon the grant or renewal of a lease, where the property the subject of the partition, exchange or lease was land of the mentally incompetent person, shall, subject to the application thereof for any purposes authorized by this Act, as between the representatives of the real and personal estate of the mentally incompetent person, be considered as real estate, except in the case of premiums and sums of money received upon the grant or renewal of leases of property of which the mentally incompetent person was tenant for life, in which case the premiums and sums of money are personal estate of the mentally incompetent person. and of money received from certain other sources

(3) In order to give effect to this section, the court may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as are deemed expedient. R.S.O. 1950, c. 230, s. 18. Powers of court

**19.** The committee of the estate, or such person as the court approves, shall, in the name and on behalf of the mentally incompetent person, execute and do all such assurances and things for giving effect to any order under this Act as the court directs, and every such assurance and thing is valid and effectual and takes effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject. R.S.O. 1950, c. 230, s. 19. Power to carry orders into effect

**20.** Where a power is vested in a mentally incompetent person in the character of trustee or guardian, or the consent of a mentally incompetent person to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the court to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the mentally incompetent person, under an order of the court made upon the application of any person interested, may exercise the power or give the consent in such manner as the order directs. R.S.O. 1950, c. 230, s. 20. Powers vested in mentally incompetent person as trustee or guardian



Appoint-  
ment of  
trustees  
by court

R.S.O. 1960,  
c. 408

**21.** Where the court exercises, in the name and on behalf of a mentally incompetent person, a power of appointing new trustees vested in the mentally incompetent person, the court, where it seems to be for the mentally incompetent person's benefit and also expedient, may make any order respecting the property subject to the trust that might have been made in the same case under *The Trustee Act* on the appointment thereunder of a new trustee or new trustees. R.S.O. 1950, c. 230, s. 21.

Provision for  
maintenance  
when dis-  
ability is  
temporary

**22.—(1)** Where it appears to the court that there is reason to believe that the mental incompetency of a mentally incompetent person so found is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision be made for the maintenance of the mentally incompetent person, or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to him and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the court may allow thereout such amount as is deemed proper for the temporary maintenance of the mentally incompetent person or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money, or any part thereof, to such person as in the circumstances of the case it is thought proper to entrust with the application thereof, and may direct it to be paid to such person accordingly, and when received to be applied and it shall accordingly be applied in or towards such temporary maintenance.

Effect of  
receipt

(2) The receipt in writing of the person to whom payment is to be made for any money payable to him by virtue of an order under this section is a good discharge, and every person shall act upon and obey every such order.

Liability to  
account

(3) The person receiving any money by virtue of an order under this section shall pass an account thereof when and as the court directs. R.S.O. 1950, c. 230, s. 22, *revised*.

#### VESTING ORDERS

Power to  
transfer  
stock

**23.** Where any stock is standing in the name of or is vested in a mentally incompetent person beneficially entitled thereto, or is standing in the name of or vested in the com-

mittee of the estate of a mentally incompetent person so found in trust for the mentally incompetent person or as part of his property, and the committee dies intestate, or himself becomes a mentally incompetent person, or is out of Ontario, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, or to receive or pay over the dividends thereof as directed by an order of the court, then the court may order some fit person to transfer the stock to or into the name of a new committee, or of the Accountant of the Supreme Court, or otherwise, and also to receive and pay over the dividends in such manner as the court directs. R.S.O. 1950, c. 230, s. 23.

**24.** Where any stock is standing in the name of or vested in a person residing out of Ontario, the court, upon proof that he has been declared a mentally incompetent person and that his personal estate has been vested in a person appointed for the management thereof according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed, or otherwise, and also to receive and pay over the dividends thereof as the court directs. R.S.O. 1950, c. 230, s. 24.

Stock in name of mentally incompetent person out of jurisdiction

**25.—(1)** Where a mentally incompetent person is solely or jointly seised or possessed of any land upon trust or by way of mortgage, the court may by order vest the land in such person or persons for such estate and in such manner as the court directs.

Power to vest land of mentally incompetent trustee or mortgagee

(2) Where a mentally incompetent person is solely or jointly entitled to a contingent right in any land upon trust or by way of mortgage, the court may by order release the land from the contingent right and dispose of it to such person as the court directs.

Or a contingent right

(3) An order made under subsection 1 or 2 has the same effect as if the trustee or mortgagee had been sane and had executed a deed conveying the land for the estate named in the order, or releasing or disposing of the contingent right.

Effect of order

(4) Where an order may be made under this section, the court may, if it is more convenient, appoint a person to convey the land or release the contingent interest, and a conveyance or release by such person in conformity with the order has the same effect as an order under subsection 1 or 2. R.S.O. 1950, c. 230, s. 25.

Conveyance

**26.—(1)** Where a mentally incompetent person is solely entitled to any stock or chose in action upon trust or by way of mortgage, the court may by order vest in any person the

Mentally incompetent trustee or mortgagee of chose in action

right to transfer or to call for a transfer of the stock or to receive the dividends thereof, or vest in any person the chose in action, or any interest in respect thereof.

Jointly  
interested

(2) Where a person is jointly entitled with a mentally incompetent person to any stock or chose in action upon trust or by way of mortgage, the court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof either in such person alone or jointly with any other person.

Mentally  
incompetent  
personal  
representa-  
tive

(3) Where any stock is standing in the name of a deceased person whose personal representative is a mentally incompetent person or where a chose in action is vested in a mentally incompetent person as the personal representative of a deceased person, the court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof in any person whom the court appoints.

Transfer

(4) Where an order may be made under this section, the court may, if it is more convenient, appoint some fit person to make or join in making the transfer. R.S.O. 1950, c. 230, s. 26.

Execution of  
powers of  
attorney and  
transfers

**27.**—(1) The person in whom the right to transfer or to call for a transfer of any stock is vested may execute and do all powers of attorney, assurances and things to complete the transfer according to the order, and the transfer is valid and effectual to all intents and purposes, and banks and other companies and their officers and all other persons are bound to obey every such order according to its terms.

Bank or  
company to  
be bound  
by order

(2) After notice in writing of an order under this Act, it is not lawful for a bank or other company to transfer stock to which the order relates or pay any dividends except in accordance with the order. R.S.O. 1950, c. 230, s. 27.

Order to be  
complete  
discharge

**28.** This Act and every order purporting to be made under this Act is a full indemnity and discharge to any bank and other company and society and their respective officers and servants and all other persons for all acts and things done or permitted to be done pursuant thereto so far as relates to any property in which a mentally incompetent person is interested either in his own right or as trustee or mortgagee, and it is not necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make such order. R.S.O. 1950, c. 230, s. 28.



**29.** The fact that an order made under this Act for conveying or vesting land or releasing or disposing of a contingent right has been founded on an allegation of the mental incompetency of a trustee or mortgagee is conclusive evidence of the fact alleged in any court upon any question as to the validity of the order, but this section does not prevent the court from directing a reconveyance of any land or contingent right dealt with by the order, or from directing any party to any proceeding concerning such land or right to pay any costs occasioned by the order, where the order appears to have been improperly obtained. R.S.O. 1950, c. 230, s. 29.

**30.** The powers conferred by this Act as to vesting orders may be exercised by vesting any land, stock or chose in action in the trustee or trustees of any charitable society or in any incorporated charitable body over which the court would have jurisdiction upon action duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the court under its general or statutory jurisdiction. R.S.O. 1950, c. 230, s. 30.

**31.** The court may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under this Act is to be exercised. R.S.O. 1950, c. 230, s. 31.

**32.** Where the court has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, an order may also be made appointing a new trustee or trustees. R.S.O. 1950, c. 230, s. 32.

#### MISCELLANEOUS

**33.** Where there is money in any court to the credit of a person who has been found or who is alleged to be a mentally incompetent person and the person is resident in Great Britain or Ireland or in any part of Canada other than Ontario, upon production of an order made by a superior court exercising jurisdiction where the person is resident authorizing any person to receive such money, the court may make an order for payment of such money to the person designated in the order to receive it. R.S.O. 1950, c. 230, s. 33.

**34.** The court may order the costs, charges, and expenses of and incidental to orders, issues, directions, conveyances, transfers, and all proceedings of whatever nature under this Act to be paid by any party to the application, issue or proceeding, or out of the estate of the mentally incompetent person or alleged mentally incompetent person, or partly in one way and partly in another. R.S.O. 1950, c. 230, s. 34.

## Rules

**35.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules for carrying this Act into effect and for regulating the costs in relation thereto, and except where inconsistent with this Act or such rules, *The Judicature Act* and the rules made thereunder apply to proceedings under this Act. R.S.O. 1950, c. 230, s. 35.

R.S.O. 1960,  
c. 197

APPLICATION OF ACT TO PERSONS NOT MENTALLY INCOMPETENT,  
BUT INCAPACITATED BY MENTAL INFIRMITY

Extension  
of Act

**36.**—(1) The provisions of this Act relating to management and administration apply to every person not declared to be mentally incompetent with regard to whom it is proved, to the satisfaction of the court, that he is, through mental infirmity, arising from disease, age or other cause, or by reason of habitual drunkenness or the use of drugs, incapable of managing his affairs.

Application  
of section

(2) This section applies although the person is not a mentally incompetent person.

Powers of  
committee,  
how  
exercised  
and by  
whom

(3) Such of the powers of this Act as are made exercisable by the committee of the estate under order of the court shall be exercised in the cases provided for by subsection 1 by such person, in such manner, and with or without security, as the court directs, and any such order may confer upon the person therein named authority to do any specified act or exercise any specified power, or may confer a general authority to exercise on behalf of the person to whom the order relates until further order, all or any such powers without further application to the court.

Liability of  
person  
appointed

(4) Every person appointed to do any such act or exercise any such power is subject to the jurisdiction and authority of the court as if such person were the committee of the estate of a mentally incompetent person so declared.

Application  
of s. 11

(5) Section 11 applies to the cases provided for by subsection 1, and the person in respect of whom the order is made or any person aggrieved or affected by the order has the like right to appeal therefrom as is provided for by section 5.

Proceedings  
on applica-  
tion to  
discharge  
order

(6) Upon application at any time after the expiration of one year from the date of the order by which a person has been declared incapable of managing his affairs under subsection 1, or sooner by leave of the court, the like proceedings may be taken and the like order made as provided in section 9 in the case of a person who has been declared a mentally incompetent person. R.S.O. 1950, c. 230, s. 36.

## CHAPTER 238

### The Mercantile Law Amendment Act

#### 1. In this Act,

Interpre-  
tation

- (a) "bill of lading" includes all receipts for goods accompanied by an undertaking to transfer them from the place where they were received to some other place by any mode of carriage whatever, whether by land or water or partly by land and partly by water;
- (b) "goods" includes wares and merchandise;
- (c) "warehouse receipt" means a receipt given by any person for any goods in his actual, visible and continued possession as bailee thereof in good faith and not as of his own property, and includes,
  - (i) a receipt given by any person who is the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, and actually in the place or in one or more of the places owned or kept by him whether such person is engaged in other business or not,
  - (ii) a receipt given by any person in charge of logs or timber in transit from timber limits or other land to the place of destination of such logs or timber,
  - (iii) a specification of timber,
  - (iv) a warehouse receipt as defined by *The Warehouse Receipts Act*. R.S.O. 1950, c. 231, s. 1. R.S.O. 1960, c. 424

**2.—**(1) Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty, pays the debt or performs the duty is entitled to have assigned to him, or to a trustee for him, every judgment, specialty or other security that is held by the creditor in respect of the debt or duty, whether the judgment, specialty or other security is or is not deemed at law to have been satisfied by the payment of the debt or the performance of the duty.

Right of  
sureties  
paying the  
principal  
debt, etc.,  
to assign-  
ment



Remedies on  
such assign-  
ment

(2) Such person is entitled to stand in the place of the creditor, and to use all the remedies and, on proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, indemnification for the advances made and loss sustained by such person, and the payment or performance made by him is not a defence to such action or other proceeding by him.

What one  
co-surety,  
etc., may  
recover from  
another

(3) No co-surety, co-contractor or co-debtor is entitled to recover from any other co-surety, co-contractor or co-debtor more than the just proportion to which, as between themselves, the last-mentioned person is justly liable. R.S.O. 1950, c. 231, s. 2.

Securities  
held on joint  
account

**3.—**(1) Where, in a mortgage or an obligation for payment of money, or a transfer of mortgage or of such obligation, made after the 1st day of July, 1886, the sum or any part of the sum advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account, or where a mortgage, or such an obligation, or such a transfer, is made to more persons than one, jointly and not in shares, the mortgage money, or other money or money's worth, for the time being due to such persons on the mortgage or obligation shall be deemed to be and remain money or money's worth belonging to those persons on a joint account, as between them and the mortgagor or obligor, and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, is a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

Application  
of section

(2) This section applies only if and as far as a contrary intention is not expressed in the mortgage or obligation or transfer, and has effect subject to the terms thereof. R.S.O. 1950, c. 231, s. 3.

Joint  
contracts

**4.** In case any one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several, and this notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person, but the property and effects of shareholders in chartered banks or the members of other incorporated companies are

not liable to a greater extent than they would have been if this section had not been passed. R.S.O. 1950, c. 231, s. 4.

5.—(1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly to pay money or to make a conveyance, or to do any other act to them or for their benefit, shall be deemed to include and shall by virtue of this Act imply an obligation to do the act to or for the benefit of the survivor or survivors of them, and to or for the benefit of any other person to whom the right to sue on the covenant contract, bond or obligation devolves. Effect of covenant with two or more jointly

(2) This section extends to a covenant implied by *The Conveyancing and Law of Property Act*. The Idem R.S.O. 1960, c. 66

(3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond or obligation, and has effect subject to the covenant, contract, bond or obligation and to the provisions therein contained. Contrary intention  
R.S.O. 1950, c. 231, s. 5.

6.—(1) Any covenant, whether express or implied, or agreement entered into by a person with himself and one or more other persons shall be construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other person or persons alone. Covenants of a person and one or more persons enforceable

(2) This section applies to covenants or agreements heretofore or hereafter entered into and to covenants implied by statute in the case of a person who conveys or is expressed to convey to himself and one or more other persons, but without prejudice to any order of the court made before the 18th day of April, 1933. R.S.O. 1950, c. 231, s. 6 *amended*. Application of section

7.—(1) Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon, or by reason of the consignment or endorsement, has and is vested with all rights of action, and is subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made with him. Bills of lading

(2) Nothing in this section prejudices or affects any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being the consignee or endorsee, or of his receipt of the goods by reason of or in consequence of the consignment or endorsement. Certain rights and liabilities not affected

Bills of lading as evidence against signer

(3) Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel, train or conveyance of any kind is conclusive evidence of shipment as against the master or other person signing it, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving it that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary, but the master or other person so signing may exonerate himself in respect to such misrepresentation by showing that it was caused without any default on his part, and wholly by the fraud of the shipper or of the holder, or of some person under whom the holder claims. R.S.O. 1950, c. 231, s. 7.

Assignment of warehouse receipts, etc., as collateral security  
R.S.O. 1960, c. 424

8.—(1) Subject to the provisions of *The Warehouse Receipts Act* as to the negotiation of, and the transfer of the goods covered by, a warehouse receipt as defined therein, the owner of or other person entitled to receive the goods included in a warehouse receipt or bill of lading may transfer the warehouse receipt or bill of lading by endorsement thereon signed by himself, his attorney or agent to any other person as collateral security for any debt owing by him.

What passes

(2) The endorsement or transfer vests in the transferee from the date thereof all the right or title of the transferor to or in the goods, subject to the right of the transferor to have the goods, warehouse receipt or bill of lading re-transferred to him if the debt is paid when due.

Rights of transferee

(3) If the debt is not paid when due, the person to whom the goods, warehouse receipt or bill of lading was so transferred may sell the goods and, after satisfying any lien against the goods, may retain the proceeds or so much thereof as is equal to the amount of the debt and shall return the overplus, if any, to the transferor. R.S.O. 1950, c. 231, s. 8.

Warehouse receipt or bill of lading given by owner who is warehouse-man

9. Where a person by whom a warehouse receipt or bill of lading might be given for goods in his capacity as a miller, or the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, master of a vessel or carrier, is the owner of or entitled himself otherwise than in such capacity to receive the goods, any warehouse receipt or bill of lading, or any acknowledgment or certificate intended to answer the purpose thereof, given and endorsed by such person is as valid and effectual for the purposes of this Act as if the warehouse receipt, bill of lading, acknowledgment



or certificate had been given by one person and endorsed by another. R.S.O. 1950, c. 231, s. 9.

**10.** If goods are manufactured or produced from the goods or any of them included in or covered by any warehouse receipt, while so covered, the person holding the warehouse receipt shall hold or continue to hold the goods during the process and after the completion of the manufacture or production with the same right and title and for the same purposes and upon the same conditions as he held or could have held the original goods. R.S.O. 1950, c. 231, s. 10.

As to goods manufactured from articles pledged

**11.—(1)** No goods, other than timber, boards, deals, staves, sawlogs or other lumber, shall be held in pledge for any period exceeding six months.

Limit of time for holding goods in pledge

**(2)** No timber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding twelve months.

Idem

**(3)** No transfer of a bill of lading or warehouse receipt shall be made under this Act to secure the payment of any debt unless the debt is contracted at the time of the acquisition of the bill of lading or warehouse receipt, or upon the written promise or agreement that the bill of lading or warehouse receipt would be given to such person. R.S.O. 1950, c. 231, s. 11.

When the debt may be incurred

**12.** All advances made on the security of a bill of lading or warehouse receipt give to the person making the advances a claim for the re-payment of the advances on the goods therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid vendor or other creditor, save and except claims for wages for labour performed in making and transporting timber, boards, deals, staves, sawlogs or other lumber, but such preference is not given over the claim of an unpaid vendor who had a lien upon the goods at the time of the acquisition by such person of the bill of lading or warehouse receipt, unless the same was acquired by him without knowledge of such lien. R.S.O. 1950, c. 231, s. 12.

Prior claim of person making advance over unpaid vendor

**13.—(1)** In the event of the non-payment at maturity of any debt or liability secured by a bill of lading or warehouse receipt, the holder thereof may sell the goods mentioned therein or so much thereof as will suffice to pay the debt or liability with interest and expenses, returning the surplus, if any, to the person from whom the bill of lading or warehouse receipt, or the goods mentioned therein, as the case

Sale of goods on non-payment of debt

may be, were acquired, but such power of sale shall be exercised subject to subsections 2, 3 and 4.

Notice of  
sale of  
timber, etc.

(2) No sale of any timber, boards, deals, staves, sawlogs or other lumber shall be made under this Act without the consent in writing of the owner until notice of the time and place of the sale has been given by registered letter to the last known address of the pledgor at least thirty days before the sale.

Notice of  
sale of  
other goods

(3) No goods, other than timber, boards, deals, staves, sawlogs or other lumber, shall be sold under this section without the consent of the owner until notice of the time and place of sale has been given by a registered letter to the last known address of the pledgor thereof at least ten days before the sale.

Sale by  
auction

(4) Every sale under such power of sale without the consent of the owner shall be made by public auction after notice thereof by advertisement in at least two newspapers published in or nearest to the place where the sale is to be made, stating the time and place thereof. R.S.O. 1950, c. 231, s. 13.

Transfer of  
warehouse  
receipts for  
crude petro-  
leum issued  
by incorpo-  
rated  
companies

**14.—**(1) Every transportation receipt, warehouse receipt, accepted order and certificate for crude petroleum, issued by an incorporated company authorized to carry on the business of warehousing, is transferable by endorsement, either special or in blank, and upon being endorsed in blank becomes transferable by delivery, and every such endorsement or transfer by delivery transfers all right of property and possession of the petroleum mentioned in the transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of the transportation or warehouse receipt, accepted order or certificate as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way.

Idem

(2) On the delivery of any petroleum mentioned in such document by such company in good faith to a person in possession of the transportation or warehouse receipt, accepted order or certificate so endorsed or transferred, the company is freed from all further liability in respect thereof, and the endorsee or transferee or holder of the transportation or warehouse receipt, accepted order or certificate to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery has transferred to and vested in him all rights of action and is subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. R.S.O. 1950, c. 231, s. 14.

**15.** Stipulations in contracts as to time or otherwise that would not, before the coming into force of *The Ontario Judicature Act, 1881*, have been deemed to be or to have become of the essence of such contracts in a court of equity shall receive in all courts the same construction and effect as they would prior to the coming into force of that Act have received in equity. R.S.O. 1950, c. 231, s. 15.

Construction  
of stipu-  
lations not  
of the  
essence of  
the contract  
1881, c. 5

**16.** Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation. R.S.O. 1950, c. 231, s. 16.

Part per-  
formance





## CHAPTER 239

**The Milk Industry Act****1.—(1) In this Act,**Interpre-  
tation.

1. "Advisory Committee" means The Milk Industry Advisory Committee of Ontario;
2. "agreement" means an agreement made under the Act or the regulations by collective bargaining representatives;
3. "award" means an award made by the Board or an award made by an arbitrator or a board of arbitration under the regulations;
4. "Board" means The Milk Industry Board of Ontario;
5. "cheese factory" means premises to which milk is regularly brought for the purpose of being manufactured into cheese;
6. "combined plant" means premises to which milk or cream is regularly brought for the purpose of being manufactured into two or more milk products;
7. "creamery" means premises to which milk or cream is regularly brought for the purpose of being manufactured into creamery butter;
8. "cream receiving station" means premises at which cream is regularly collected before being transported to a creamery;
9. "dairy" means premises on which a distributor carries on business;
10. "distributor" means a person engaged in the business of selling or distributing fluid milk products either directly or indirectly to consumers;
11. "field-man" means a field-man appointed for the purposes of this Act;
12. "fluid milk" means milk bought by a distributor;
13. "fluid milk products" means the classes of milk and milk products designated as fluid milk products in the regulations;

14. "licence" means a licence provided for under this Act or the regulations;
15. "local board" means a board constituted under a plan;
16. "market" in respect of fluid milk means the market named in an agreement or award, or a market for which a marketing agency has been appointed, or an area in which a distributor sells fluid milk products;
17. "marketing" means buying, selling and offering for sale and includes advertising, assembling, financing, packing and shipping for sale or storage and transporting in any manner by any person, and "market" and "marketed" have corresponding meanings;
18. "marketing agency" means a marketing agency designated by the Board in the regulations;
19. "milk" means milk from cows;
20. "milk product" means cream, butter, cheese, cottage cheese, condensed milk, milk powder, dry milk, ice cream, ice cream mix, casein, malted milk, sherbet and such products as are designated milk products in the regulations;
21. "milk receiving station" means premises to which milk is regularly brought for the purpose of being transported to a cheese factory, combined plant, creamery, milk separating plant, processing plant or pasteurizing plant;
22. "milk separating plant" means premises to which milk is regularly brought for the purpose of removing the cream from the milk;
23. "Minister" means the Minister of Agriculture;
24. "pasteurizing plant" means premises to which milk is regularly brought for the purpose of being pasteurized;
25. "plan" means a plan under this Act to provide for the marketing or regulating of the following products:
  - i. milk or cream or any class of milk or cream,
  - ii. milk or cream or any class of milk or cream to be manufactured into a milk product, or
  - iii. cheese;



26. "plant" means a cheese factory, combined plant, dairy, creamery, cream receiving station, milk receiving station, milk separating plant, pasteurizing plant or processing plant;
27. "processing plant" means a plant to which milk or cream is regularly brought for the purpose of being manufactured into any milk product other than butter or cheese;
28. "processor" means a person engaged in the business of manufacturing milk products;
29. "producer" means a producer of milk or cream for sale;
30. "regulated product" means a product in respect of which a plan is in force;
31. "regulations" means the regulations made under this Act;
32. "transporter" means a person engaged in the business of transporting milk or cream.

(2) The purpose and intent of this Act is to provide for the control and regulation in any or all respects of the marketing within Ontario of milk, or of cream, or of any class of milk or cream marketed for the purpose of being manufactured into a milk product, or of cheese, including the prohibition of such marketing in whole or in part. 1957, c. 70, s. 1.

## PART I

### THE MILK INDUSTRY ADVISORY COMMITTEE OF ONTARIO

**2.**—(1) There shall be an advisory committee to be known as "The Milk Industry Advisory Committee of Ontario".

(2) The Advisory Committee shall consist of seven or more members appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may designate one of the members as chairman or two of the members as co-chairmen.

(4) A majority of the members constitutes a quorum.

(5) The objects and purposes of the Advisory Committee are,

- (a) to co-operate with all branches of the milk industry in bringing about a better understanding of all

phases of the producing and marketing of milk and milk products; and

- (b) to consider matters relating to the producing and marketing of milk and milk products and to make recommendations thereon to the Minister or to the Dairy Commissioner. 1957, c. 70, s. 2.

#### DAIRY COMMISSIONER

Dairy  
Commis-  
sioner

**3.**—(1) There shall be a Dairy Commissioner appointed by the Lieutenant Governor in Council.

Duties

(2) It is the duty of the Dairy Commissioner to supervise and co-ordinate the administration and enforcement of this Act.

Idem

(3) The Dairy Commissioner shall promote and co-ordinate research with respect to the producing and the marketing of milk and milk products. 1957, c. 70, s. 3.

#### THE MILK PRODUCERS' CO-ORDINATING BOARD

The Milk  
Producers'  
Co-ordinat-  
ing Board

**4.**—(1) The Milk Producers' Co-ordinating Board is hereby continued a body corporate. 1957, c. 70, s. 4 (1) *amended*.

Members

(2) The board shall consist of at least twelve members.

Appoint-  
ment

(3) On the recommendation of the Dairy Commissioner, the Lieutenant Governor in Council may appoint the members of the board.

By-laws

(4) The Lieutenant Governor in Council may make regulations prescribing by-laws for regulating and governing the conduct of the affairs of the board.

Powers and  
duties

(5) It is the duty of The Milk Producers' Co-ordinating Board and it has power,

- (a) to co-ordinate, stimulate, increase and improve the production and marketing of milk and milk products;
- (b) to provide facilities for the handling of any phase of the marketing of milk;
- (c) to recommend to any local board, producers' association, marketing agency or other organization representing milk producers that any such organization contribute a portion of its funds to the board and to receive such contributions;
- (d) to administer and use its funds for the purposes of carrying out its powers and duties under this Act. 1957, c. 70, s. 4 (2-5).

## THE MILK INDUSTRY BOARD OF ONTARIO

5.—(1) The Milk Industry Board of Ontario is hereby <sup>Board established</sup> continued a body corporate. 1957, c. 70, s. 5 (1) *amended*.

(2) The Board shall consist of three or more members <sup>Members</sup> appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may designate <sup>Chairman</sup> one of the members as chairman.

(4) A majority of the members constitutes a quorum. <sup>Quorum</sup>

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. <sup>Remuneration</sup>

(6) The Lieutenant Governor in Council may appoint such <sup>Staff</sup> officers, field-men, clerks and employees as may be necessary for the conduct of the affairs of the Board.

(7) The Board may, <sup>Powers and duties</sup>

- (a) upon its own initiative or upon complaint, inquire into any matter relating to the production, transporting, processing, distribution or sale of fluid milk or a regulated product;
- (b) investigate, arbitrate, adjust or otherwise settle any dispute between persons engaged in producing, processing, distributing or transporting fluid milk or any regulated product or between any two classes of such persons;
- (c) investigate the cost of producing, processing and marketing any milk, cream or milk product, prices, price spreads, trade practices, methods of financing, management policies and other matters relating to the marketing of milk and milk products;
- (d) require persons engaged in the producing or marketing of a regulated product to register their names, addresses and occupations with the Board or local board, require such persons to furnish such information in regard to the regulated product as the Board or the local board may determine, and appoint persons to inspect the books, records and premises of such persons;
- (e) stimulate, increase and improve the marketing of milk and milk products by such means as it may deem proper;
- (f) co-operate with a marketing board, a local board or a marketing agency of any other province for the purpose of marketing any regulated product;



- (g) prohibit distributors compelling or inducing producers to invest money either directly or indirectly in a dairy plant or equipment in order that such producers may obtain or retain a sale for their fluid milk;
- (h) prohibit a distributor from terminating without just cause the purchase of fluid milk from a producer or a producer from terminating the sale of fluid milk to a distributor;
- (i) require a distributor who terminated the purchasing of fluid milk from a producer to resume the purchasing or a producer who terminated the selling of fluid milk to a distributor to resume the selling;
- (j) refuse to grant a licence where the applicant is not qualified by experience, financial responsibility or equipment to properly conduct the proposed business or for any other reason that the Board may deem sufficient;
- (k) suspend, revoke or refuse to renew any licence for failure to observe, perform or carry out any of the provisions of this Act, the regulations, any order of the Board or any agreement or award, provided that in every such case the applicant shall be afforded an opportunity of appearing before the Board to show cause why the licence should not be suspended or revoked or why the renewal should not be refused, as the case may be;
- (l) after a public hearing, prescribe maximum prices at which fluid milk products may be sold by wholesale or retail in any market;
- (m) do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any agreement or award.

Powers of investigation

R.S.O. 1960, c. 323

(8) Upon any investigation under subsection 7, the Board has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

Delegation of powers

(9) The Board may delegate to a local board such of its powers under subsection 7 as it deems necessary and may at any time terminate such delegation of powers.

Regulations respecting the filing of records with the Board

(10) The Board may make regulations,

- (a) providing for the filing with the Board by each local board and marketing agency of true copies of,

- (i) minutes of all meetings of the local board and the marketing agency,
  - (ii) all orders and directions of the local board,
  - (iii) all reports of annual operations of the local board and the marketing agency,
  - (iv) all annual financial statements and audited reports of the local board and the marketing agency,
  - (v) all agreements made between the local board and the marketing agency, and
  - (vi) such further statements and reports as the Board may require from the local board or the marketing agency;
- (b) providing for,
- (i) the furnishing to producers of a regulated product of copies of the annual statement of operations and the financial report of each local board and marketing agency, and
  - (ii) the publication of the annual statement of operations and the financial report of each local board and marketing agency; and
- (c) providing for the manner in which and fixing the times at which, or within which, copies of minutes, orders, directions, reports and statements shall be filed with the Board, furnished to producers or published, as the case may be, under clause *a* or *b*. 1957, c. 70, s. 5 (2-10).

**6.—(1)** Where the Board receives from any group of producers in Ontario a<sup>1</sup> petition or request asking that a plan be established for the regulating or controlling of the marketing of milk, or fluid milk, or cheese, or milk or cream for manufacture into one or more milk products, or any class or portion thereof, and where the Board is of the opinion that the group of producers represents 15 per cent of the producers affected by the proposed plan, the Board shall investigate and consider the purposes of the proposed plan and matters relating to the marketing of the milk, or fluid milk, or cheese, or milk or cream for manufacture into one or more milk products, or any class or portion thereof, as the case may be.

(2) Notwithstanding subsection 1, if in the opinion of the Board a plan for the regulating or controlling of the marketing of milk, or fluid milk, or cheese, or milk or cream for manu-

facture into one or more milk products, or any class or portion thereof, will be conducive to the more efficient production and marketing thereof, the Board may submit to a plebiscite of the producers thereof the question of favour of the plan.

Submission  
to plebiscite  
by producers

(3) Where the Board receives from producers of a regulated product a petition that in the opinion of the Board bears the signatures of at least 15 per cent of the producers under the plan asking that the plan be revoked, the Board may submit to a plebiscite of the producers of the regulated product the question of favour of the plan, but a petition need not be considered by the Board in respect of a plan that was established within the preceding year or a plan on which a plebiscite of the producers was taken on a like question within the preceding two years.

Submission  
or re-  
submission  
to plebiscite  
by Board

(4) Where in the opinion of the Board an existing plan should be submitted or resubmitted to a plebiscite, it may submit or resubmit to a plebiscite of the producers of the regulated product the question of favour of the plan.

Plebiscite on  
amendment  
of the  
purposes  
of a plan

(5) Where the Board receives from a local board a request that amendment be made of the purposes of the plan under which the local board is established, the Board may submit to a plebiscite of the producers of the regulated product the question of favour of the proposed purposes.

Regulations  
for taking  
of plebiscite

(6) Where the Board submits or resubmits to a plebiscite of the producers of milk, or fluid milk, or cheese, or milk or cream for manufacture into one or more milk products, or any class or portion thereof, or the producers of a regulated product, as the case may be, the question of favour of a proposed plan or an existing plan or an amendment of the purposes of an existing plan, the Board may make regulations,

- (a) prescribing the manner of taking votes in the plebiscite;
- (b) defining "producer" for the purposes of the plebiscite;
- (c) providing for the registration of producers and the preparation and revision of voters' lists;
- (d) providing for the appointment of revising officers and deputy returning officers and prescribing their powers to add names to or strike names from the voters' lists;
- (e) providing for appeals to the Board from any decision of a revising officer;
- (f) providing that a person shall not be entitled to vote in the plebiscite unless his name appears on the voters' list as revised;



- (g) providing for the taking of the plebiscite, including the times and places of voting, the appointment of persons for the purposes of the plebiscite and the notices to be given to producers;
- (h) respecting any matter that the Board deems necessary or advisable for the taking of the plebiscite.

(7) Where a plebiscite is taken under subsection 2 or 5 and the percentage of votes in favour of the question submitted is not less than the percentage of votes of persons voting or eligible to vote, prescribed in the regulations, the Board may recommend that the proposed plan be established or the existing plan be amended, as the case may be.

(8) Where a plebiscite is taken under subsection 3 or 4 and the percentage of votes in favour of the existing plan is less than the percentage of votes of persons voting or eligible to vote, prescribed in the regulations, the Board may recommend that the existing plan be revoked.

(9) Where the Board submits to a plebiscite of the producers of milk, or fluid milk, or cheese, or milk or cream for manufacture into one or more milk products, or any class or portion thereof or a regulated product the question of favour of a proposed plan or an existing plan or an amendment of the purposes of an existing plan, the Board may at the same time also submit any question relating to the controlling or regulating of the marketing of any such product or regulated product.

- (10) No plebiscite shall be declared invalid by reason of,
- (a) any irregularity on the part of the returning officer or a deputy returning officer or in any of the proceedings in respect of the plebiscite;
  - (b) a failure to hold a poll at any place appointed for holding a poll;
  - (c) non-compliance with the provisions of this Act or the regulations in respect of the plebiscite as to the taking of the poll or the counting of the votes, or as to limitations of time; or
  - (d) any mistake in the use of the forms prescribed in the regulations in respect of the plebiscite,

if it appears that the irregularity, failure, non-compliance or mistake did not affect the result of the plebiscite.

(11) Any irregularity in the preparation or revision of the voters' list for a plebiscite is not a ground for questioning the validity of the plebiscite and the persons whose names appear

Result of plebiscite to establish or amend a plan

Result of plebiscite on re-submission of plan

Additional questions may be submitted to plebiscite

Plebiscite not invalid for any irregularity, etc.

Irregularity in voters' list not to invalidate plebiscite

on the voters' list as finally revised shall be deemed to be the producers entitled to vote in the plebiscite.

Recount

(12) The Board may in such manner as it deems proper provide for a recount of the ballots cast in any or all polling districts for a plebiscite and may provide for a plebiscite to be resubmitted on the same question or questions in any or all polling districts.

Voting documents to be retained by Board

(13) The Board shall retain in its possession any documents in respect of a plebiscite for at least one year after the last day of voting in the plebiscite. 1959, c. 59, s. 1, *part*.

Regulations respecting plans and local boards

7.—(1) Notwithstanding section 6, the Lieutenant Governor in Council may make regulations,

- (a) establishing, amending and revoking plans for control and regulation of the marketing within Ontario or any part thereof of milk, or fluid milk, or cheese, or milk or cream for manufacture into one or more milk products, or any class or portion thereof, and constituting local boards to administer such plans;
- (b) defining "producer" or classes of producers for the purposes of any plan;
- (c) giving to any local board any or all of the powers that are vested in a co-operative corporation incorporated under Part V of *The Corporations Act* as amended from time to time, and providing that in the exercise of such powers the members of the local board shall be deemed to be the shareholders and the directors thereof;
- (d) prescribing by-laws for regulating the government of local boards and the conduct of their affairs, but any local board may make by-laws not inconsistent with this Act, regulations made under this clause or regulations made under the plan under which the local board is established as amended from time to time;
- (e) dissolving a local board on such terms and conditions as he may deem proper and providing for the disposition of the assets of the local board.

R.S.O. 1960,  
o. 71

Application of plan

(2) A plan may apply to,

- (a) all of Ontario or to any area within Ontario;
- (b) milk, or fluid milk, or cheese, or milk or cream for manufacture into one or more milk products, or any class or portion thereof; and

- (c) any or all persons engaged in producing, marketing or processing the product or products under clause *b* to which the plan applies.

(3) The method by which the members of any local board shall be appointed, elected or chosen shall be set out in the plan under which the local board is established. Contents of plan

(4) Every local board is a body corporate. Local board to be body corporate

(5) The acts of a member or an officer of a local board are valid notwithstanding any defects that may afterwards be discovered in his qualifications and appointment or election. Acts of members valid  
1959, c. 59, s. 1, *part*.

**8.—(1)** The Board may make regulations generally or with respect to any regulated product marketed locally within Ontario, Regulations with respect to regulated products

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of a regulated product;
2. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence;
3. providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made, or for any other reason that the Board may deem proper;
4. providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any order or direction of the Board or local board or marketing agency;
5. providing for the right of any person whose licence was refused, suspended or revoked or was not renewed to show cause why such licence should not be refused, suspended or revoked or why such renewal should not be refused, as the case may be;
6. providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing the regulated product and the collecting of the licence fees and the recovering of such licence fees by suit in any court of competent jurisdiction;



7. prescribing the form of licences;
8. providing for the exemption from the regulations under any plan of any class, variety, grade or size of regulated product or of any person or class of persons engaged in the producing or marketing of the regulated product or any class, variety, grade or size of regulated product;
9. requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product and providing for the administration and disposition of any moneys or securities so furnished;
10. providing for the fixing and allotment of quotas for any regulated product and for the marketing of any regulated product on a quota basis and for prohibiting any producer from marketing any of the regulated product in excess of the quota allotted to such producer;
11. providing for the regulating and the controlling of the marketing of any regulated product including the times and places at which the regulated product may be marketed;
12. authorizing a local board to use any class of licence fees and other moneys payable to it for the purposes of paying the expenses of the local board, carrying out and enforcing this Act and the regulations and carrying out the purposes of the plan under which the local board is established, and for such purposes as The Milk Producers' Co-ordinating Board recommends;
13. authorizing a local board to establish a fund in connection with the plan for the payment of any moneys that may be required for the purposes mentioned in paragraph 12;
14. providing for the establishment in connection with any plan of negotiating agencies which may be empowered to adopt or settle by agreement any or all of the following matters:
  - i. minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,
  - ii. terms, conditions and forms of agreements relating to the producing or marketing of the regulated product,

- iii. any charges, costs or expenses relating to the production or marketing of the regulated product; 1957, c. 70, s. 7 (1), pars. 1-14.
15. providing for the arbitration by the Board or by a board of arbitration of any matter not adopted or settled by agreement under paragraph 14;
16. providing for the arbitration by the Board or by an arbitrator or by a board of arbitration of any dispute arising out of any agreement adopted or settled under paragraph 14 or any award made under paragraph 15. 1958, c. 58, s. 1.
17. determining the constitution of such negotiating agencies and boards of arbitration and regulating the practice and procedure of such agencies and boards;
18. authorizing any local board or marketing agency to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product locally within Ontario and requiring such local board or marketing agency, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade and size of the regulated product delivered by him, and to make an initial payment on delivery of the regulated product and subsequent payments until all of the remainder of the moneys received from the sale is distributed to the producers;
19. authorizing any local board to require the price or prices payable or owing to the producers for the regulated product to be paid to or through the local board;
20. except where a marketing agency has been designated for the marketing of a regulated product, authorizing any local board to prohibit the marketing of any class, variety, grade or size of any regulated product;
21. providing for the carrying out of any plan of marketing declared by the Lieutenant Governor in Council to be in force;
22. designating as a milk product any article of food or drink manufactured or derived in whole or in part from milk or a milk product; 1957, c. 70, s. 7 (1), pars. 17-22.

23. prescribing the percentages of votes required under section 6; 1959, c. 59, s. 2 (1).
24. designating a marketing agency by or through which a regulated product shall be marketed and requiring the regulated product to be marketed by or through such marketing agency; 1957, c. 70, s. 7 (1), par. 24; 1959, c. 59, s. 2 (2).
25. providing for the revocation of appointment of a marketing agency designated under paragraph 24 and, upon the recommendation of the local board, the designation of a marketing agency to act in its stead;
26. providing for the holding of public hearings on matters respecting a vote of producers before the adoption or amendment or revocation of a plan is recommended by the Board under section 6, and respecting notices, advertising, procedures, reports and other matters relating to the public hearings; 1957, c. 70, s. 7 (1), pars. 25, 26.
27. requiring any person who receives any of the regulated product from a producer to deduct from the moneys payable to the producer any licence fees, levies or charges payable by the producer to the local board or marketing agency, as the case may be, and to forward such licence fees, levies or charges to the local board or marketing agency; 1959, c. 59, s. 2 (3).
28. providing for the making of such orders and the issuing of such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any order or direction of the Board or a local board or a marketing agency. 1957, c. 70 s. 7 (1), par. 27.

Agreements  
and awards

(2) Every agreement made under paragraph 14 of subsection 1 and every award made under paragraph 15 or 16 of subsection 1 and every re-negotiated agreement or award made under clause *b* of this subsection,

- (a) shall be filed with the Board forthwith after the making thereof and the Board may by order declare the agreement or award, or renegotiated agreement or award, or part thereof, to come into force on the day it is so filed or on such later day as may be named in the agreement or award or renegotiated agreement or award, as the case may be, and, subject to clause *b*, shall remain in force for one year or for



such period as is provided in the agreement or award or renegotiated agreement or award; and

- (b) may at any time upon an order of the Board be renegotiated in whole or in part in such manner as the Board may determine. 1959, c. 59, s. 2 (4).

(3) *The Regulations Act* does not apply to any order of the Board made under subsection 2. R.S.O. 1960, c. 349, not to apply

(4) Any regulation made under this section may be limited as to time or place or otherwise. Limited effect

(5) The Board may delegate to a local board such of its powers under paragraphs 1 to 11 of subsection 1 as it deems necessary, and may at any time terminate such delegation of power. 1957, c. 70, s. 7 (3-5). Delegation of powers to local boards

9. The Board may make regulations vesting in any marketing agency any powers that the Board deems necessary or advisable to enable such marketing agency to effectively promote, regulate and control the marketing of the regulated product locally within Ontario and, without limiting the generality of the foregoing, may make regulations, Regulations vesting powers in marketing agencies

(a) vesting in any marketing agency designated under paragraph 24 or 25 of subsection 1 of section 8 any or all of the following powers:

- (i) to direct and control, by order or direction, either as principal or agent, the marketing of the regulated product including the times and places at which the regulated product may be marketed,
- (ii) to determine the quantity of each class, variety, grade or size of the regulated product that shall be marketed by each producer,
- (iii) to prohibit the marketing of any class, variety, grade or size of the regulated product,
- (iv) to determine from time to time the price or prices that shall be paid to producers for the regulated product or any class, variety, grade or size of the regulated product and to determine different prices for different parts of Ontario,
- (v) to impose such service charges as may from time to time be fixed by the local board for the marketing of the regulated product,

- (vi) to pay to the local board from service charges imposed under subclause v its expenses in carrying out the purposes of the plan,
  - (vii) to require the price or prices payable or owing to the producer for the regulated product to be paid to or through the marketing agency,
  - (viii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product owing to the producer, 1957, c. 70, s. 8, cl. (a).
  - (ix) to purchase or otherwise acquire such quantity or quantities of the regulated product as the marketing agency deems advisable; 1959, c. 59, s. 3.
- (b) vesting in any local board power to fix from time to time the service charges to be imposed by its marketing agency for the marketing of the regulated product;
  - (c) vesting in any marketing agency power to pay to the producers the price or prices for the regulated product less service charges imposed under subclause v of clause a and less moneys to be paid to the local board for its expenses under subclause vi of clause a and to fix the times at which or within which such payments shall be made;
  - (d) providing for statements to be given by any marketing agency to producers showing the class and grade and the quantity or number of the regulated product marketed, the price or prices paid and the particulars of the service charges imposed by it. 1957, c. 70, s. 8, cls. (b-d).

Limitation  
of powers  
of local  
board

**10.** Where the Board delegates to a local board any of its powers or vests in a marketing agency powers to promote, regulate and control the marketing of a regulated product, the Board may, at any time,

- (a) limit the powers of the local board or the marketing agency in any or all respects; and
- (b) revoke any regulation, order or direction of the local board or marketing agency made or purporting to be made under such power. 1959, c. 59, s. 4.

Production  
of records

**11.—(1)** Every person, when requested so to do by an officer of the Board or a local board or by a field-man or by a person appointed by the Board or a local board to inspect

the books, records and premises of persons engaged in the producing or marketing of fluid milk, fluid milk products, a regulated product, or milk for manufacture into a regulated product, shall, in respect of the fluid milk, fluid milk products, regulated product, or milk for manufacture into a regulated product, produce such books and records and permit inspection thereof and supply extracts therefrom and permit inspection of such premises. 1957, c. 70, s. 9 (1); 1958, c. 58, s. 2.

(2) No person shall hinder or obstruct an officer of the Board or a local board or a field-man or a person appointed by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of fluid milk or a regulated product in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information. Obstruction  
of officers

(3) The production by any person of a certificate of appointment by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of fluid milk, fluid milk products or a regulated product, purporting to be signed by the chairman and secretary of the Board or the local board shall be accepted by any person engaged in the producing or marketing of the fluid milk, fluid milk products or regulated product as *prima facie* proof of such appointment. Certificate of  
appointment

(4) Every field-man may, Powers of  
field-man

- (a) enter any premises or conveyance used for the manufacture, storage or carriage of milk or milk products and inspect any milk or milk product found therein;
- (b) stop any conveyance that he believes to contain any milk or milk product and inspect the conveyance and any milk or milk product found therein;
- (c) obtain a sample of any milk or milk product at the expense of the owner for the purpose of making an inspection thereof. 1957, c. 70, s. 9 (2-4).

**12.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations, Regulations.

- (a) respecting the health of cows;
- (b) respecting the quality of milk or cream produced or received at a plant or any class thereof;
- (c) respecting sanitary conditions of cows, premises on which cows are kept or milked and the equipment



used in connection with the producing, handling, storing and transporting of milk and cream or any class thereof;

- (d) respecting the equipment that shall be used in connection with the producing, handling, storing, testing and transporting of milk and cream or any class thereof;
- (e) providing for the selecting, grading, rejecting, weighing, sampling, testing and pasteurizing of milk and cream or any class thereof sold or offered for sale to plants;
- (f) prohibiting the sale of milk or cream or any class thereof by producers for purposes of human consumption or processing that is not produced, handled, stored or transported in accordance with the regulations;
- (g) providing for the addition of a food colouring to milk and cream rejected at a plant. 1957, c. 70, s. 10.

#### CONSTRUCTION AND OPERATION OF PLANTS

Permit for  
construction  
of plants

**13.—**(1) No person shall construct or alter any building intended for use as a plant without a permit from the Board.

Alteration  
of plant

(2) No person shall alter a plant, the operation of which is licensed under this Act, without a permit from the Board.

Conditions  
for issue of  
permit

(3) No permit shall be issued by the Board,

(a) unless in the opinion of the Board the plant is necessary and desirable having regard to the needs of the producers in the locality in which it is proposed to locate the plant and the facilities of the existing plants in operation; and

(b) unless the proposed plant complies with the regulations. 1957, c. 70, s. 11.

Licence to  
operate  
plant

**14.** No person shall operate a plant without a licence therefor from the Board. 1957, c. 70, s. 12.

Cream  
receiving  
stations

**15.** No person shall own or operate any place, other than a creamery, where cream is received or purchased for the purpose of being transported or forwarded to a creamery unless such place is approved by the Board, and no person shall deliver cream to or accept cream from any such place unless it is approved by the Board. 1957, c. 70, s. 13.

**16.** Subject to the regulations, all milk and cream received at a plant shall be paid for on the basis of its milk-fat content. <sup>Basis of payment for milk</sup>  
1957, c. 70, s. 14.

**17.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations, <sup>Regulations, operation of plants</sup>

1. providing for the issue and renewal of licences for the operation of any class of plant and fixing the fees payable therefor;
2. prescribing the terms and conditions upon which licences shall be issued;
3. providing for the submission of drawings and specifications for the construction or alteration of a building intended for use as a plant and for the alteration of a plant the operation of which is licensed under this Act;
4. prescribing the methods of construction or alteration of a building intended for use as a plant and the materials that shall be used for the construction or alteration;
5. prescribing the location of plants, the equipment that shall be used in connection with plants and the sanitary requirements for plants;
6. providing for the issue of permits for the construction or alteration of a building intended for use as a plant and for the alteration of a plant the operation of which is licensed under this Act and prescribing the terms and conditions therefor;
7. establishing classes of buttermakers, cheesemakers, milk and cream testers and milk and cream graders;
8. providing for the examination and re-examination of persons applying for certificates for any class of buttermaker, cheesemaker, milk and cream tester or milk and cream grader;
9. prescribing the qualifications for persons who may be issued certificates;
10. providing for the issue and renewal of certificates and fixing the fees payable therefor and providing for the suspension and revocation of certificates and prescribing the terms and conditions therefor;
11. providing for the issue of temporary certificates;

12. providing for the identification and labelling of containers used for transporting milk or cream for manufacture into a milk product and regulating the use of such containers;
13. regulating the transportation of milk or cream for manufacture into a milk product including the time thereof;
14. establishing classes of milk products;
15. establishing grades for milk, cream, milk products or any class thereof;
16. providing for the manner of payment and the payment of premiums and differentials for any grade of milk and cream for manufacture into a milk product;
17. prescribing the tests, procedures to be followed and the equipment to be used respecting the testing for milk-fat content of milk and cream and for quality of milk and cream;
18. providing for the identification and labelling of containers used for samples of milk and cream for the purpose of making tests;
19. prescribing the books and records that shall be kept by licensees under this Part and providing for the inspection of such books and records by auditors appointed by the Board;
20. providing for the settlement of disputes in connection with the weighing, grading, sampling and testing of milk and cream and the payment for milk and cream;
21. providing for the keeping of records at plants or any class of plant and the period for which such records shall be kept and the issue of statements to producers;
22. regulating the methods of and the equipment used in manufacturing any milk product;
23. providing for the standards of quality for and the composition of any milk product;
24. providing for the inspection, grading, packing, marking, handling, shipping, transporting, advertising, purchasing and selling of any milk product;
25. prescribing the manner in which processors, sellers, transporters and shippers of milk or cream or any class thereof or of milk products or any class thereof shall identify, for purposes of grading, individual lots in any shipment;



26. providing for sanitary standards and requirements for buildings and premises in which milk products or any class thereof are manufactured, stored, graded or packed;
27. providing for the issue of grading certificates by field-men;
28. establishing classes of field-men and prescribing the powers and duties of field-men or any class thereof;
29. providing for the detention and confiscation of any milk or cream or milk product that does not comply with this Act and the regulations;
30. exempting from this Act or the regulations or any part thereof any plant, person or class of persons, or milk product or any class, variety or grade of milk product. 1957, c. 70, s. 15.

**18.** Where one of the objects of a co-operative corporation to which Part V of *The Corporations Act* applies is to engage in the transportation of milk and the Board issues a certificate to the Minister of Highways that more than three-quarters of the shareholders or members of the corporation are producers supplying milk to a plant, no licence under *The Public Commercial Vehicles Act* is required by the corporation for the purpose of transporting such milk. 1957, c. 70, s. 16.

Transportation of milk by producers' co-operative R.S.O. 1960, cc. 71, 319

**19.—(1)** Upon the recommendation of the Minister, the Lieutenant Governor in Council may appoint a committee of at least three persons to be known as "The Formula Committee for Fluid Milk".

Formula Committee

(2) The objects and purposes of The Formula Committee for Fluid Milk are,

Objects

- (a) to inquire into any matter relating to the cost of producing, handling, storing and transporting of fluid milk;
- (b) to inquire into prices and price indices relating to the sale of milk and cream and milk products;
- (c) to determine a formula by which a fair price to producers for fluid milk may be calculated.

(3) The Board may make regulations,

Regulations

- (a) approving the price formula for fluid milk determined under subsection 2;
- (b) respecting the filing of and the refusal to file an agreement respecting prices that shall be paid to the

producers supplying fluid milk to the distributors in a market where the prices are not in accordance with the approved price formula for fluid milk. 1957, c. 70, s. 17.

Agreements  
to buy fluid  
milk, etc.

**20.**—(1) No distributor shall buy fluid milk or sell fluid milk products except under an agreement or an award,

- (a) respecting prices that shall be paid to the producers for the fluid milk; and
- (b) prescribing the terms and conditions relating to the sale and purchase of the fluid milk.

Idem

(2) An agreement or an award under subsection 1 may establish,

- (a) the principles upon which quotas of producers shall be determined;
- (b) quota committees to determine the quotas of producers;
- (c) the principles upon which bases of producers shall be determined;
- (d) bases committees to determine the bases of producers. 1957, c. 70, s. 18.

Regulations,  
fluid milk

**21.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

1. designating classes of distributors and transporters;
2. defining areas and designating them as distribution areas;
3. designating markets to be included in a group of markets for bargaining by producers and distributors;
4. providing for the issuing of licences by the Board to the designated classes of distributors and of transporters and fixing the licence fees payable therefor;
5. providing for the licensing of persons to operate pasteurization plants and the issue of such licences by the Board and fixing the licence fees payable therefor;
6. providing for the issuing of temporary licences;
7. prescribing the form of licences and the terms and conditions upon which licences shall be issued, renewed, suspended or revoked;

8. prohibiting the persons who are required to be licensed in respect of transporting of fluid milk or selling fluid milk products or the operating of a pasteurization plant from engaging in any such business except under the authority of a licence;
9. providing for the furnishing of security or proof of financial responsibility by distributors or any class thereof;
10. providing for the administration and disposition by the Board of bonds or any moneys recovered under any such bonds or any moneys or securities furnished as proof of financial responsibility by distributors;
11. prescribing the terms of payment for fluid milk purchased from producers;
12. prescribing the conditions under which fluid milk shall be received, handled, transported, stored, delivered or supplied;
13. regulating and prohibiting the purchasing and selling of fluid milk and the trafficking in fluid milk by transporters;
14. regulating and controlling transporters' routes from producers to distributors, or providing for the redistribution of producers or distributors on such routes or adding producers or distributors to such routes, and prohibiting transporters from transporting fluid milk of any producer for which he is not licensed;
15. providing for the purchase of fluid milk from producers on a base or quota basis;
16. regulating delivery routes of distributors;
17. regulating retail or wholesale deliveries of fluid milk products or any class of fluid milk products by distributors;
18. prohibiting retail or wholesale deliveries of fluid milk products or any class of fluid milk products by distributors on any day or days;
19. defining and designating classes of milk and milk products as fluid milk products;
20. providing for the minimum and maximum percentages of milk-fat, and the minimum percentage of total solids including milk-fat, in any fluid milk product;



21. regulating and prohibiting the addition to or removal from fluid milk or fluid milk products of any substance and regulating and prohibiting the sale of fluid milk or fluid milk products or any class thereof to which the substance has been added or from which the substance has been removed;
22. prescribing the types and sizes of containers that shall be used by distributors;
23. respecting the advertising in respect of and the labelling of containers for any class of fluid milk products;
24. requiring producers and transporters of fluid milk and distributors of fluid milk products to furnish to the Board such information or returns as the Board may determine;
25. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1957, c. 70, s. 19.

Application  
of ss. 23-29

**22.** Sections 23, 24, 25, 26, 27, 28 and 29 apply to the marketing of fluid milk other than fluid milk in respect of which a plan is in force. 1957, c. 70, s. 20.

Collective  
bargaining,  
producers  
and  
distributors

**23.—(1)** The producers of fluid milk or an association of producers representing them, or the distributors of fluid milk products or an association of distributors representing them, in any market or in any group of markets may by notice require,

- (a) in the case of producers, the distributors to whom they sell the fluid milk; or
- (b) in the case of distributors, the producers from whom they purchase the fluid milk,

to bargain collectively in order to determine the prices that shall be paid to the producers supplying fluid milk to the distributors and to prescribe the terms and conditions relating to the purchase and sale of the fluid milk and to establish principles upon which quotas or bases shall be determined and establish quota or base committees and to determine the conditions upon which a producer who does not supply fluid milk to a distributor at the time the agreement or award is made may arrange with a distributor in the market to purchase his fluid milk and, where the distributors transport the fluid milk from the premises of the producers, the charges that may be made therefor and the terms and conditions relating to the transportation of the fluid milk. 1957, c. 70, s. 21 (1); 1958, c. 58, s. 3.

(2) The producers or an association of producers representing them, or the transporters or an association representing them, of fluid milk in any market or in any group of markets may by notice require, <sup>Producers, transporters</sup>

- (a) in the case of producers, the transporters who transport the fluid milk to distributors; or
- (b) in the case of transporters, the producers for whom they transport the fluid milk,

to bargain collectively in order to determine the prices that shall be paid to the transporters for transporting the fluid milk of the producers and to prescribe the terms and conditions relating to the transportation of the fluid milk.

(3) A notice for collective bargaining under subsection 1 <sup>Notice</sup> or 2 shall be in writing and shall contain,

- (a) the names of the persons, or the name of the association representing them, requiring the collective bargaining;
- (b) the names and addresses of the collective bargaining representatives of the persons or the association requiring the collective bargaining;
- (c) the market or group of markets in which collective bargaining is required;
- (d) the names of the persons, or the name of the association representing them, required to bargain collectively; and
- (e) where an agreement or award is in force in the market or group of markets, the subject-matters of the agreement or award on which collective bargaining is required.

(4) A copy of the notice for collective bargaining shall be given to the persons required to bargain collectively, or the association representing them, and to the Board. <sup>Service of notice</sup>

(5) Where the Board is of the opinion that the persons or the association requiring collective bargaining under clause *a* of subsection 3 are not representative of the producers, transporters or distributors, as the case may be, in the market or group of markets, it may, within seven days of the receipt of the notice, so advise the persons joining in the notice and the persons to whom the notice was given and thereupon the notice ceases to have effect. <sup>Where persons or associations not representative</sup>

(6) Where the persons or the association required to bargain collectively named under clause *d* of subsection 3 receive <sup>Representatives to be named</sup>

a notice requiring collective bargaining, the persons or the association shall name representatives, not greater in number than are named under clause *b* of subsection 3, as collective bargaining representatives, and shall in writing within seven days of the receipt of the notice give their names and addresses to the collective bargaining representatives named in the notice under clause *b* of subsection 3 and to the Board.

Failure to  
name repre-  
sentatives

(7) Where the persons required to bargain collectively do not inform the collective bargaining representatives of the persons requiring collective bargaining and the Board of the names and addresses of their representatives within seven days of the receipt of the notice under subsection 1 or 2, the Board may designate persons to represent them.

Where  
representa-  
tives named  
not repre-  
sentative

(8) Where the Board is of the opinion that the representatives named by the party required to bargain collectively are not representative of that party, it may designate persons to represent them.

Amendment  
of notice

(9) Where a group of markets is named in a notice under subsection 1 or 2 and the Board is of the opinion that the group includes a market or markets for which collective bargaining should not be required or that the group should include a market or markets not included, it may by order within seven days of the receipt of the notice require the notice to be amended accordingly.

Commence-  
ment of  
bargaining

(10) Collective bargaining shall commence within fourteen days of the receipt of the notice under subsection 1 or 2 by the persons required to bargain collectively and, if collective bargaining does not so commence, it shall be presumed that an agreement cannot be reached.

Good faith

(11) The representatives shall bargain collectively in good faith. 1957, c. 70, s. 21 (2-11).

Arbitration  
before Board

**24.**—(1) When collective bargaining by the representatives of the producers and distributors has proceeded for fourteen days or sooner if the representatives of either party are satisfied that an agreement under section 23 cannot be reached, they may, by notice to the representatives of the other party and to the Board, require all matters in dispute to be referred to the Board which shall arbitrate the same. 1957, c. 70, s. 22 (1); 1959, c. 59, s. 5 (1).

Arbitration  
by board of  
arbitration

(2) When collective bargaining by the representatives of the producers and transporters has proceeded for fourteen days, or sooner if the representatives of either party are satisfied that an agreement under section 23 cannot be reached, they may, by notice to the representatives of the other party



and to the Board, require all matters in dispute to be arbitrated by a board of arbitration of three members, of whom one shall be appointed by the representatives of the producers, one shall be appointed by the representatives of the transporters, and one shall be appointed by the two members appointed by the representatives of the producers and the transporters, but, where the two members fail to agree on the third member of the board of arbitration within ten days of their appointment and so notify the Board, the Board shall appoint the third member, and the board of arbitration shall forthwith arbitrate the same. 1959, c. 59, s. 5 (2).

(3) Each of the parties to the arbitration shall assume its own costs of the arbitration. Costs

(4) *The Arbitrations Act* does not apply to any arbitration under this section. 1957, c. 70, s. 22 (2-3). R.S.O. 1960, c. 18, not to apply

**25.—**(1) Every agreement shall be filed forthwith after the making thereof with the Board and the Board may by order declare the agreement or part thereof to come into force on the day named in the agreement or if no day is named in the agreement it shall come into force on a day determined by the Board. 1958, c. 58, s. 4. Agreements, filing and commencement

(2) Every award comes into force on the day named in the award. Commencement of awards

(3) Every agreement and award remains in force until a new agreement or award is in force. Term of agreements and awards

(4) The Board may at any time upon the application of any party to an agreement or award provide for the renegotiation of any of its terms by way of collective bargaining under section 23 and, failing agreement, by arbitration under section 24. 1957, c. 70, s. 23 (3-5). Re-negotiation

**26.—**(1) Subject to subsection 2, where the Board receives from an association of milk producers who are engaged in supplying fluid milk to distributors in a market or markets in Ontario a petition asking that for the purpose of defraying the expenses of such association every producer engaged in supplying fluid milk to distributors in such market or markets be required to pay fees, the Board may, if it is of the opinion that such association represents a majority of the producers so engaged, make an order, Fees for producers associations

(a) requiring the producers so engaged to pay fees to the association;

(b) designating the amounts of fees and requiring payment of the fees in different amounts or in instalments;

- (c) requiring the distributors who receive fluid milk from any such producer to deduct the amounts of the fees payable by such producer from moneys payable to the producer and to pay such amounts to the association.

Collective  
bargaining

(2) Where the Board receives from an association of milk producers who are engaged in supplying fluid milk to distributors in any market or markets in Ontario a request that the association be authorized to represent the producers in the market or markets for the purpose of collective bargaining under section 23, the Board may, after a hearing at which all interested parties had an opportunity to be heard, make an order,

- (a) designating the market or markets or the area to which the order shall apply;
- (b) requiring that all collective bargaining under section 23 on behalf of the producers supplying fluid milk to the market or markets or area designated under clause *a* shall be by the association;
- (c) in every case where collective bargaining representatives are required under section 23 to bargain collectively on behalf of producers supplying fluid milk to the market or markets or area designated under clause *a*, requiring that the association appoint collective bargaining representatives;
- (d) requiring the producers supplying fluid milk to the market or markets or area designated under clause *a* to pay fees to the association in such amounts as may be designated in the order;
- (e) requiring every distributor who receives fluid milk from any such producer to deduct the amounts of the fees payable by the producer and to pay such amounts to the association; and
- (f) requiring the association to pay to each local association of producers supplying fluid milk to distributors in a market such amounts of the fees paid by the producers in that market as it deems proper for the payment of the expenses of the local association.

Disposition  
of Fees

(3) The fees payable by producers of fluid milk under this section may be used by the association or local association for the purposes of paying the expenses of the association or local association, as the case may be, carrying out and enforcing the Act and the regulations respecting fluid milk and for such purposes as The Milk Producers' Co-ordinating Board recommends. 1957, c. 70, s. 24.

**27.**—(1) Subject to any agreement made under section 23 <sup>Who may supply fluid milk to market</sup> or award made under section 24, only the producers who supplied fluid milk to the market at the time the agreement or award was made are entitled to supply fluid milk to the market while the agreement or award is in effect, provided that any other producer,

- (a) who has arranged with a distributor in the market to purchase his fluid milk; and
- (b) who complies with the laws relating to the production, sanitation, handling and care of fluid milk,

is entitled to supply fluid milk to the market and is bound by the agreement or award and every other matter relating to the marketing of fluid milk in the same manner as other producers supplying fluid milk to the market. 1957, c. 70, s. 25 (1); 1958, c. 58, s. 5.

(2) Only the distributors in the market at the time the agreement or award was made are entitled to distribute fluid milk products in the market, provided that any other distributor, <sup>Who may distribute fluid milk products in market</sup>

- (a) who complies with the laws relating to the sanitation, weighing, handling and care of fluid milk and fluid milk products;
- (b) who has arranged for a supply of fluid milk; and
- (c) who has obtained a licence as a distributor from the Board and a municipal licence where the same is required,

is entitled to distribute fluid milk products in the market or the part thereof designated in his licence and is bound by the agreement or award and every other matter relating to the marketing of fluid milk and fluid milk products in the same manner as other distributors in the market.

(3) Where an agreement or award is in effect in a market, <sup>Sale of fluid milk not processed in market</sup> no distributor shall sell or deliver to any person for resale in that market fluid milk or fluid milk products processed outside that market except where the fluid milk sold or delivered was supplied or the fluid milk products sold or delivered were processed from fluid milk that was supplied, as the case may be, at a price not less than the highest price named in the agreement or award. 1957, c. 70, s. 25 (2, 3).

**28.**—(1) If the distributors in any market require additional fluid milk to that provided for in the agreement or award, the producers supplying the market shall, unless <sup>Where additional fluid milk required</sup> otherwise provided in the agreement or award, have the right



of supplying the additional fluid milk required at the prices determined by the agreement or award, failing which the distributors may obtain elsewhere the additional fluid milk required at the prices determined by the agreement or award.

Where  
additional  
fluid milk  
produced

(2) If the producers supplying fluid milk to a market have additional fluid milk to that required to be supplied under the agreement or award, the distributor shall, unless otherwise provided in the agreement or award, have the right of purchasing the additional fluid milk at the price determined by the agreement or award, failing which the producers may dispose of the additional fluid milk as they see fit. 1957, c. 70, s. 26.

Distributor's  
areas may  
be restricted

**29.**—(1) Any licence issued under this Act to a distributor may specify one or more areas in which the distributor may distribute fluid milk products.

Idem

(2) Where one or more areas are specified in a licence, the distributor to whom it is issued shall not distribute fluid milk products in any area other than the area or areas so specified. 1957, c. 70, s. 27.

## PART II

### MUNICIPAL BY-LAWS

Interpre-  
tation

**30.** In this Part,

- (a) "municipality" means a city, town, village, township or improvement district;
- (b) "vendor" means a person who sells milk or cream or fluid milk products to the consumer or a person, other than a producer, who sells fluid milk or fluid milk products to any person for resale. 1957, c. 70, s. 28.

Licensing  
by-laws

**31.**—(1) The council of any municipality may pass by-laws for licensing, regulating and governing vendors, and for revoking any such licence.

Where  
licence  
required

(2) No person shall be a vendor in a municipality in which any such by-law is in force without a licence therefor under this Part. 1957, c. 70, s. 29.

By-laws  
prescribing  
hours of  
delivery

**32.** The council of any municipality may pass by-laws prescribing the hours during which fluid milk products may be delivered within the municipality by vendors. 1957, c. 70, s. 30.

**33.**—(1) The council of any municipality may by by-law <sup>Municipal inspectors</sup> appoint one or more inspectors for the enforcement of this Part and any by-law passed under this Part.

(2) An inspector,

Powers

- (a) may prohibit the sale within the municipality of fluid milk or fluid milk products which, in his judgment, were produced or handled contrary to any regulation made under section 12 or any by-law;
- (b) may inspect the premises of every vendor licensed to sell fluid milk or fluid milk products within the municipality to ensure that the requirements of any regulation made under section 12 and of any by-laws are complied with, and may take samples of such fluid milk or fluid milk products for examination and testing;
- (c) may enter the premises, wherever located, of any person producing fluid milk for sale within the municipality, inspect the fluid milk and take samples thereof for examination and testing and inspect the water supplied to the cows or used in cleaning dairy utensils on such premises and take samples thereof for examination and testing;
- (d) may inspect and take samples of fluid milk for sale within the municipality while in transit.

(3) The result of all such tests shall be open to public <sup>Publication of tests</sup> inspection at all reasonable times and may be published by the medical officer of health of the municipality. 1957, c. 70, s. 31.

**34.** The council of any municipality may establish and <sup>Municipal milk depots</sup> maintain or assist by annual grant or otherwise in the establishment and maintenance of milk depots in order to furnish a special supply of fluid milk products to infants. 1957, c. 70, s. 32.

## PART III

### GENERAL

**35.** Every person who contravenes any of the provisions <sup>Offences</sup> of this Act or of the regulations, or of any plan, or of any order or direction of the Board or any local board or any marketing agency, or of any agreement or award or re-negotiated agreement or award filed with the Board, or any by-law under this Act, is guilty of an offence and on summary

conviction is liable for a first offence to a fine of not more than \$50 and for a second or subsequent offence to a fine of not less than \$50 and not more than \$500. 1957, c. 70, s. 33; 1959, c. 59, s. 6.

Injunction  
proceedings

**36.**—(1) Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or any order, agreement or award made under this Act has been or is being committed, the Supreme Court or a judge thereof may, upon the application of the Board, enjoin any transporter or distributor from carrying on business as a transporter or distributor, absolutely, or for such period as seems just, and any injunction *ipso facto* cancels the licence of the transporter or distributor named in the order during the same period.

Application  
may be  
*ex parte*

(2) The application under subsection 1 may be made without any action being instituted either,

- (a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof unless the time is extended or the originating motion mentioned in clause *b* is sooner heard and determined; or
- (b) by an originating notice of motion which, if an interim injunction has been granted, shall be served within five days and be returnable within ten days from the date of such interim injunction. 1957, c. 70, s. 34.

Penalty for  
failure to  
pay mini-  
mum price

**37.**—(1) Every person who fails to pay at least the minimum price established for any regulated product or for fluid milk in any agreement or award filed with the Board is, in addition to the fine provided for in section 35, liable to a penalty of an amount equal to the amount of such minimum price less any amount paid by such person as payment in full or in part for such regulated product or for fluid milk.

Disposition  
of penalty

(2) Every penalty imposed under subsection 1 shall be paid to the local board or to the Board and the local board or the Board, as the case may be, shall,

- (a) distribute the money so paid *pro rata* among the persons who failed to receive at least the minimum price; or
- (b) use the money to stimulate, increase and improve the marketing of the regulated product or of fluid milk. 1957, c. 70, s. 35.



**38.** Where, in any action or prosecution under this Act, <sup>Evidence</sup> production of any agreement, award, order, direction, rule, resolution, determination or minute of the Board, a local board or a marketing agency is required, any document purporting to be a copy of such agreement, award, order, direction, rule, resolution, determination or minute, certified to be a true copy thereof by the chairman or secretary of the Board, the local board or marketing agency, as the case may be, is *prima facie* proof of the making and the text thereof without production of the original document and without proof of the signature of the person purporting to have certified it. 1957, c. 70, s. 36.

**39.**—(1) In any action or prosecution under this Act, the <sup>Onus</sup> onus is upon the defendant or the accused, as the case may be, to prove that the product in respect of which the action or prosecution is brought is not a regulated product within the meaning of this Act.

(2) In any prosecution under the *Agricultural Products Marketing Act* (Canada), the justice, if he finds that the <sup>Evidence applicable R.S.C. 1952 c. 6</sup> offence is not proved under that Act but the evidence establishes an offence of a similar kind in relation to the control or regulation of the marketing of the regulated product locally within Ontario under section 8 or 9, may convict the accused under this Act notwithstanding that no information has been laid under this Act. 1957, c. 70, s. 37.

**40.**—(1) Any word or expression used in the Act or the <sup>Definitions in regulations</sup> regulations may be defined in the regulations for the purpose of the regulations.

(2) Any regulation may be limited as to time or place <sup>Regulations may be limited</sup> or both. 1957, c. 70, s. 38.



## CHAPTER 240

## The Minimum Wage Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Industry and Labour Board established under *The Department of Labour Act*; R.S.O. 1960, c. 97
- (b) "employee" includes every person who performs any work in any business, trade, work, undertaking or occupation for wages or with the hope or expectation of receiving wages either directly from his employer or indirectly through another person;
- (c) "employer" includes every person who as the owner, proprietor, manager, superintendent or overseer of any business, trade, work or undertaking employs or permits any person to work in such business, trade, work or undertaking;
- (d) "wage" or "wages" includes every form of remuneration for labour performed. R.S.O. 1950, c. 235, s. 1.

2. The Board may arrange for a conference between employers and employees or their representatives in any business, trade, work, undertaking or occupation for the purpose of obtaining information as to the prevailing rates of wages and conditions of employment and may accept recommendations from the conference with respect to any matters that may be dealt with by an order of the Board. R.S.O. 1950, c. 235, s. 2. Conferences

3. The Board may establish minimum rates of wages for all employees and generally enact such provisions with respect to conditions of employment as may be deemed necessary for the betterment of the physical, moral and intellectual well-being of employees, and, without restricting the generality of the foregoing, the Board may make orders and by means of such orders may, Minimum rates

- (a) designate or define any business, trade, work or undertaking or the part or parts thereof to which the order is applicable; Designation of business
- (b) designate or define the zone or zones within Ontario in which any order or part thereof is applicable; Zoning



Classifi-  
cation of  
employees

(c) classify employees and separately provide for any one or more classifications with respect to any matter over which the board has authority;

Minimum  
weekly  
wage

(d) establish a minimum wage for the prevailing weekly work period in the business of any employer or for any other working period that the Board may establish;

Maximum  
hours of  
labour

(e) establish the maximum number of hours of labour that may regularly be worked in the business of any employer with respect to any minimum wage established;

Overtime  
wages

(f) establish minimum hourly rates of wages for over-time work;

Short time  
wages

(g) establish minimum hourly rates of wages for employees who regularly work less than forty hours per week;

Trade terms

(h) define any term used in any order;

Special  
payments

(i) establish a special method of payment for any classification of employees;

Wage  
deductions

(j) specify when and under what conditions deductions may be made from the minimum wage established for time lost by employees through illness, holidays, absence from duty or for any other reason and also for special privileges or perquisites resulting from the nature of the work performed. R.S.O. 1950, c. 235, s. 3.

Handi-  
capped  
employee

4. The Board, without order, may grant written permission to an employer to pay to any employee who is handicapped a wage fixed by it lower than the minimum wage. R.S.O. 1950, c. 235, s. 4.

Amendment  
of orders

5. The Board, without making a new order, may temporarily suspend or vary any of its orders so as to conform to special conditions in any business and may also, by a new order, suspend, alter, revise or consolidate any of its orders or any order made by the Minimum Wage Board. R.S.O. 1950, c. 235, s. 5.

Statutory  
agreement  
for mini-  
mum wage

6. Every employer who permits any employee to perform any work with respect to which a minimum wage is established shall be deemed to have agreed to pay to the employee at least the minimum wage established and the minimum wage shall be paid to the employee only by cash or by cheque payable at par at the place where the employee performed the work. R.S.O. 1950, c. 235, s. 6.

7. No employee is competent to agree to waive or to <sup>Employees may not waive the statute</sup> forego any provision of this Act or of any order made by the Board, and no employer is competent to enter into any agreement, arrangement or understanding with an employee or with any other person that results in the whole or any part of the wages paid to an employee or to the Board on behalf of an employee being returned to or accepted by the employer, either directly or indirectly, and every such agreement, arrangement and understanding is void. R.S.O. 1950, c. 235, s. 7.

8. Every employer who discharges or threatens to discharge or in any way discriminates against an employee who, <sup>Intimidation of employees</sup>

- (a) has testified or is about to testify in any proceeding or investigation had or taken under this Act; or
- (b) has given any information to the Board regarding the wages payable to such employee or his fellow-workers in any plant; or
- (c) has initiated or taken part in any proceeding had or taken for the purpose of assisting the Board to establish a minimum wage,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50. R.S.O. 1950, c. 235, s. 8.

9. Every employer affected by an order that establishes minimum wages or maximum hours of labour shall post and keep posted a copy thereof in a conspicuous place where his employees are engaged in their duties. <sup>Orders to be posted</sup> R.S.O. 1950, c. 235, s. 9.

10. Every employer shall keep complete, continuous and accurate records setting forth the names, addresses, rates of wages, hours worked, actual earnings of each employee and the age of each employee under eighteen years and such records shall be available at all reasonable times for inspection and examination by any member of the Board and by any inspector of the Department of Labour and every employer shall supply such information and make such returns from time to time as the Board may require, and every employer who fails to keep such records and supply such information and make such returns is guilty of an offence. <sup>Employers' records</sup> R.S.O. 1950, c. 235, s. 10.

11. Every employer who makes or causes to be made false or misleading entries in any of the records that he is <sup>False records</sup> required to keep by this Act or the regulations or of any

order of the Board or who supplies or causes to be supplied false or misleading information to the Board is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and for any subsequent offence may also be imprisoned for a term of not more than six months. R.S.O. 1950, c. 235, s. 11.

**Offences**

**12.** Every employer who contravenes any order with respect to wages or hours of work is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 for each employee affected and, in default of payment, to imprisonment for a term of not more than six months and for any subsequent offence is liable to a fine of not less than \$50 for each employee affected and, in default of payment, to imprisonment for a term of not more than one year, and in every case upon conviction shall be ordered to pay to the Board on behalf of the employees affected the difference between the wages actually paid and those established by the Board and, in determining the amount of such arrears, if the court finds that the employer has not kept accurate records as required by this Act, the employees in question shall conclusively be presumed to have been employed for the maximum number of hours per week permitted and to be entitled to the full weekly wage for the total period of their employment. R.S.O. 1950, c. 235, s. 12.

**Offences**

**13.** Every employer who contravenes any provision of this Act or of the regulations or of any order of the Board for which no other penalty is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$10. R.S.O. 1950, c. 235, s. 13.

**Agreements as to arrears of wages**

**14.—(1)** The Board may approve an agreement in writing between an employer and an employee providing for the payment in instalments of any wages owing by the employer under any order.

**What deemed to be contravention of order**

**(2)** Where such agreement has been approved, the failure by the employer to carry out the terms of the agreement shall be deemed to be a contravention of the order affecting the employer and employee as of the date of the breach of the agreement. R.S.O. 1950, c. 235, s. 14.

**Exception as to domestics and farm labourers**

**15.** This Act does not apply to employees engaged as servants in private residences or engaged in farming operations. R.S.O. 1950, c. 235, s. 15.



## CHAPTER 241

**The Mining Act****1. In this Act,****Interpre-  
tation**

1. "agent", where it occurs in Parts IX and XI, means a person having, on behalf of the owner, the care or direction of a mine or a part thereof;
2. "Commissioner" means the Mining Commissioner under this Act;
3. "Crown land" does not include land in the actual use or occupation of the Crown, or of a public department of the Government of Canada or of Ontario, or of an officer or servant thereof, or under lease or licence of occupation from the Crown or the Minister of Lands and Forests or the Minister of Mines, or set apart or appropriated by lawful authority for a public purpose or vested in The Ontario Northland Transportation Commission;
4. "Department" means the Department of Mines;
5. "Deputy Minister" means the Deputy Minister of Mines;
6. "holder", when referring to the holder of an unpatented mining claim, a boring permit, a quarry permit or a licence of occupation issued under this Act, means the holder of record;
7. "in place", when used in reference to mineral, means in the place or position where originally formed in the solid rock, as distinguished from being in loose, fragmentary or broken rock, boulders, float, beds or deposits of gold or platinum-bearing sand, earth, clay, or gravel, or placer;
8. "inspector" includes "engineer" as defined in clause b of subsection 1 of section 161;
9. "licensee" means a person, mining partnership or company holding a miner's licence issued under this Act or a renewal thereof;
10. "machinery" includes steam and other engines, boilers, furnaces, milling and crushing apparatus,

hoisting and pumping equipment, chains, trucks, tramways, tackle, blocks, ropes and tools, and all appliances used in or about or in connection with a mine;

11. "metal tag" means the metal tag supplied by the mining recorder or a substitute therefor supplied by the Department;
12. the noun "mine" includes any opening or excavation in, or working of, the ground for the purpose of winning, opening up or proving any mineral or mineral bearing substance, and any ore body, mineral deposit stratum, soil, rock, bed of earth, clay, sand, gravel or cement, or place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine, and also for the purposes of Parts IX and XI, any quarry, excavation or opening in the ground made for the purpose of searching for or removal of mineral, soil, rock, quartz, limestone, earth, clay, sand, gravel or cement and any roast-yard, smelting furnace, mill, work or place used for or in connection with crushing, reducing, smelting, refining, or treating any of such substances, except that the provisions of Parts IX and XI do not apply to office buildings, cookhouses, bunkhouses, recreational centres, dwellings and the grounds used in connection therewith;
13. the verb "mine" and the word "mining" include any mode or method of working whereby the soil or earth or any rock, stone or quartz may be disturbed, removed, washed, sifted, roasted, smelted, refined, crushed or dealt with for the purpose of obtaining any mineral therefrom, whether it has been previously disturbed or not, and also for the purposes of Parts IX and XI, all operations and workings mentioned in paragraph 12;
14. "minerals" includes gold and silver, all rare and precious metals and coal, natural gas, oil and salt;
15. "mining lands" includes the lands and mining rights patented or leased under or by authority of a statute, regulation, or order in council, respecting mines, minerals or mining, and also lands or mining rights located, staked out, used or intended to be used for mining purposes;
16. "mining rights" means the ores, mines and minerals on or under any land where they are or have been dealt with separately from the surface;

17. "Minister" means the Minister of Mines;
18. "owner", when used in Parts IX and XI, includes every person, mining partnership and company being the immediate proprietor or lessee or occupier of a mine, or a part thereof, or of any land located, patented or leased as mining land, but does not include a person or a mining partnership or company receiving merely a royalty, rent or fine from a mine or mining lands, or being merely the proprietor of a mine or mining lands subject to a lease, grant or other authority for the working thereof, or the owner of the surface rights and not of the ore or minerals;
19. "patent" means a grant from the Crown in fee simple or for a less estate made under the Great Seal;
20. "prescribed" means prescribed by or under the authority of this Act;
21. "recorder" means the mining recorder of the mining division in which is situate the land in respect of which an act, matter or thing is to be done;
22. "regulations" means the regulations made under this Act;
23. "surface rights" means every right in land other than the mining rights;
24. "valuable mineral in place" means a vein, lode or deposit of mineral in place appearing at the time of discovery to be of such a nature and containing in the part thereof then exposed such kind and quantity of mineral or minerals in place, other than limestone, marble, clay, marl, peat or building stone, as to make it probable that the vein, lode or deposit is capable of being developed into a producing mine likely to be workable at a profit. R.S.O. 1950, c. 236, s. 1; 1956, c. 47, s. 1; 1957, c. 71, s. 1; 1958, c. 59, s. 1.

2.—(1) Nothing in this Act affects the sale, lease or location, for agricultural or other purposes, of any land opened for sale or free grant under *The Public Lands Act* or otherwise.

Application to sales, etc., for other purposes  
R.S.O. 1960, c. 324

(2) Notwithstanding anything in this Act, applicants for mining lands who had prior to the 14th day of May, 1906, complied with the provisions of *The Mines Act*, being chapter 36 of The Revised Statutes of Ontario, 1897, or regulations thereunder respecting applications for such lands, and whose applications were pending before the Department on such date, may be granted title to the same under this Act without staking them out as a mining claim or mining claims, and

Saving as to applications for mining lands made prior to 14th May, 1906



subject to such conditions as regards the quantity of land or performance of work as the Minister deems proper. R.S.O. 1950, c. 236, s. 2.

**Forms**

**3.** The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. R.S.O. 1950, c. 236, s. 3.

**PART I****ADMINISTRATION****Department  
of Mines**

**4.** The Department of Mines is continued. R.S.O. 1950, c. 236, s. 4, *part*.

**Adminis-  
tration of  
Acts**

**5.** The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. 1957, c. 71, s. 2, *amended*.

**Deputy  
Minister of  
Mines**

**6.—(1)** A Deputy Minister of Mines shall be appointed by the Lieutenant Governor in Council and he shall perform such duties in connection with mines, mining lands and the mining industry and other matters as are assigned to him by the Lieutenant Governor in Council or by the Minister and, in the absence of the Minister or in the case of a vacancy in the office of the Minister, he shall discharge the duties of the Minister with respect to mines, minerals, mining lands and the mining industry and such other matters as are so assigned to him.

**Powers  
of Deputy  
Minister**

(2) The Deputy Minister has all the powers, rights and authority of an inspector and such other powers, rights and authority for carrying into effect the provisions of this Act as are assigned to him by the regulations. R.S.O. 1950, c. 236, s. 5.

**Adminis-  
tration by  
Minister**

**7.—(1)** All public lands for mining purposes and for the purposes of the mineral industry and all regulations made with respect to mines or minerals or mining or mining lands or mining rights or the mineral industry shall be administered by the Minister.

**Execution of  
instruments**

(2) All patents, leases, licences or other instruments of title and all agreements, contracts or other writings relating to mines or minerals or mining lands or mining rights or the mineral industry shall be signed and executed by the Minister or by the Deputy Minister. R.S.O. 1950, c. 236, s. 6.

8.—(1) The Lieutenant Governor in Council may appoint a Provincial Geologist, a Provincial Assayer, one or more inspectors, and such other officers and agents as he deems necessary, who shall be officers of the Department and shall perform such duties as are assigned to them by this Act or by the regulations.

(2) The Provincial Geologist is *ex officio* an inspector. R.S.O. 1950, c. 236, s. 7.

9.—(1) The Lieutenant Governor may appoint for each mining division a mining recorder, who shall be an officer of the Department.

(2) Where a mining recorder is absent because of illness or for any other reason, the Minister may appoint a competent person to act as recorder *pro tempore* and such person during such time has all the powers and shall perform all the duties of a mining recorder in the mining division to which he is appointed. R.S.O. 1950, c. 236, s. 9.

10. Every recorder shall keep such books for the recording of mining claims, applications and other entries therein as are directed by the Minister, and such books shall be open to inspection by any person on payment of a fee of 25 cents for each claim or application examined, and every recorder shall also keep displayed in his office one or more maps showing the territory included in his mining division and shall mark thereon all claims as they are recorded, and there shall be no charge for examining such map or maps. R.S.O. 1950, c. 236, s. 10; 1955, c. 45, s. 2.

11. Every document filed in the recorder's office shall, during office hours, be open to inspection by anyone on payment of the prescribed fee. R.S.O. 1950, c. 236, s. 11.

12. Every copy of or extract from an entry in any of such books, and of any document filed in the recorder's office, certified to be a true copy or extract by the recorder, shall be received in any court as *prima facie* evidence of the matter certified by him without proof of his appointment, authority or signature. R.S.O. 1950, c. 236, s. 12.

13. Notwithstanding anything in *The Public Service Act*, the Minister may employ any professor, instructor, or other person to investigate the mineral resources of Ontario, or for any work in connection with this Act, and may pay him for such services at such rate as is agreed upon, out of the moneys that are appropriated by the Legislature for that purpose. R.S.O. 1950, c. 236, s. 13.

Officers  
not to be  
interested  
in Crown  
lands or  
mining  
claims

**14.**—(1) No officer appointed under this Act shall directly or indirectly, by himself or by any other person, purchase or become interested in any Crown lands, mining rights or mining claims, and any such purchase or interest is void.

Penalty

(2) Any officer contravening any provision of subsection 1 forfeits his office and is, in addition thereto, liable to a penalty of \$500 to be recovered in any court of competent jurisdiction by any person who sues for it. R.S.O. 1950, c. 236, s. 14.

Regulations  
respecting  
common use  
of certain  
offices

**15.** The Lieutenant Governor in Council may make regulations respecting the offices to be used in common between the Department of Lands and Forests and the Department of Mines, and the services to be rendered to either of the departments by the other of them, and the officers, clerks, and servants of the Department of Lands and Forests shall render such services to the Department of Mines as are required of them from time to time, and all maps, books, papers, correspondence, records or other matters or things in the Department of Lands and Forests shall be open to and may be examined by the Minister of Mines or the officers and clerks of the Department of Mines in the discharge of their departmental duties. R.S.O. 1950, c. 236, s. 15.

Certain  
officers not  
to be sub-  
poenaed  
without  
order of  
Commis-  
sioner

**16.**—(1) A subpoena shall not issue out of any court requiring the attendance of the Deputy Minister, the Commissioner, the Provincial Geologist, the Provincial Assayer, or an inspector, recorder or other officer, or the production of any document in the official custody or possession of any of them without an order of the court or a judge thereof, or in matters before the Commissioner without a direction of the Commissioner.

Privilege  
as to official  
information

(2) The Deputy Minister, the Commissioner, the Provincial Geologist, the Provincial Assayer, and an inspector, recorder, or other officer, is not bound to disclose any information obtained by him in his official capacity that a member of the Executive Council certifies ought not in the public interest to be divulged or cannot without prejudice to the interests of persons not concerned in the litigation be divulged, and all such information is privileged. R.S.O. 1950, c. 236, s. 16; 1956, c. 47, s. 12.

*Ex officio*  
justices of  
the peace

**17.** The Commissioner and every inspector is *ex officio* a justice of the peace for every county and district in Ontario and a recorder in his division is *ex officio* a justice of the peace for the county or district in which any part of his division lies, and it is not necessary that they possess any residential or property qualification. R.S.O. 1950, c. 236, s. 17; 1956, c. 47, s. 12.



**18.** The Minister or Deputy Minister may, in the pre-<sup>Officers</sup>scribed form, authorize any officer, employee or agent of the <sup>authorized</sup> Department to take affidavits, declarations or affirmations <sup>to take</sup> required under this Act, and any declaration, affidavit or <sup>affidavits</sup> affirmation taken before the person so authorized has the same force and effect as if taken before a commissioner appointed under *The Commissioners for taking Affidavits Act*. R.S.O. 1960, c. 59.  
R.S.O. 1950, c. 236, s. 18.

**19.** The Lieutenant Governor in Council may divide the <sup>Mining</sup> Province into mining divisions and may alter the number, <sup>divisions</sup> limits or extent thereof. R.S.O. 1950, c. 236, s. 20.

**20.** Except as in this Act otherwise provided, the recorder's <sup>Claims and</sup> office is the proper office for filing and recording all applica- <sup>documents</sup>tions, documents and other instruments required or permitted <sup>to be filed</sup> to be filed or recorded under this Act, affecting any unpatented <sup>in recorder's</sup> mining claim or any right, privilege or interest that may be <sup>office</sup> acquired under this Act to or in respect of Crown lands or unpatented mining rights, and all such applications, documents and instruments may, before patent, be filed or recorded in such office, but, after patent, *The Registry Act* or *The Land* <sup>R.S.O. 1960,</sup> *Titles Act*, as the case may be, applies. R.S.O. 1950, c. 236, <sup>cc. 348, 204</sup> s. 21; 1955, c. 45, s. 3.

**21.** Where a part of Ontario is not included in a mining <sup>Vacancy in</sup> division or if there is no recorder for a mining division, all <sup>office of</sup> applications shall be made to the Department and all duties <sup>recorder</sup> and powers of the recorder shall be performed and exercised by the Deputy Minister, and all acts, matters and things that in a mining division are to be done by or before a recorder shall be done by or before the Deputy Minister, and all such acts, matters and things that are to be done in the office of the recorder shall be done at the Department. R.S.O. 1950, c. 236, s. 22.

**22.** Upon the issue of a patent by the Crown of mining <sup>Minister</sup> lands or mining rights, the Minister shall give notice thereof <sup>to furnish</sup> to the recorder of the mining division in which the lands <sup>recorder</sup> included in the patent are situate, and the recorder shall keep <sup>with list</sup> in his office a list of all such lands. R.S.O. 1950, c. 236, s. 23. <sup>of lands</sup> <sup>patented</sup>

**23.—(1)** No person or company not the holder of a miner's <sup>Licence</sup> licence shall prospect for minerals upon Crown lands or lands <sup>required</sup> of which the mining rights are in the Crown, or stake out, record or acquire any unpatented mining claim, or area of land for boring permit, or acquire any right or interest therein.

Clerks or  
employees  
not to  
require  
licence

(2) A clerk or employee of a licensee performing clerical, manual or other services of like nature shall not be required to be the holder of a miner's licence. R.S.O. 1950, c. 236, s. 25.

Who may  
receive  
licences

**24.**—(1) Any person over eighteen years of age and, subject to subsection 8, any company, is entitled to obtain a miner's licence upon application therefor in the prescribed form and upon payment of the prescribed fee. 1955, c. 45, s. 5 (1).

Date and  
term of  
licence

(2) The licence shall be dated on the day of the issue thereof and it expires at midnight on the 31st day of March then next ensuing. R.S.O. 1950, c. 236, s. 26 (2).

Licence not  
valid unless  
signed

(3) Subject to subsection 4, the licence is not valid unless it is signed by the holder thereof in the space provided on the licence.

Officer to  
sign for  
company

(4) Where the licensee is a company, the licence shall be signed by the president or secretary of the company.

Licence not  
transferable

(5) The licence is not transferable. 1955, c. 45, s. 5 (2).

Licences to  
companies

(6) Licences to companies shall be issued only by the Minister or by the Deputy Minister.

Licences to  
individuals

(7) Licences to individuals may be issued by the Minister or the Deputy Minister or by any recorder. R.S.O. 1950, c. 236, s. 26 (4, 5).

Proof re-  
quired before  
licence is  
issued to  
company

(8) Where a company,

(a) incorporated in Ontario, satisfies the Minister that it is so incorporated; or

(b) incorporated outside Ontario, satisfies the Minister that it is so incorporated and that it is not required to be licensed under Part X of *The Corporations Act*; or

(c) other than a company coming within clause a or b, files with the Department a copy of the licence authorizing it to transact business or hold land in Ontario verified by an affidavit of an officer of the company,

a licence shall be issued to the company. 1955, c. 45, s. 5 (3).

Numbering  
and lettering  
of licences

**25.** Every miner's licence shall be numbered, and shall also be lettered with a letter of the alphabet to indicate the office from which it was issued. R.S.O. 1950, c. 236, s. 27.

R.S.O. 1960,  
o. 71

**26.** A miner's licence held by a company does not entitle any shareholder, officer or employee thereof to the rights or privileges of a licensee and shall not be used for the staking of mining claims. R.S.O. 1950, c. 236, s. 28; 1955, c. 45, s. 6. Effect of licence to company

**27.—(1)** A licensee is entitled to a renewal of his licence before its expiration upon making application therefor in the prescribed form, upon producing his licence and paying the prescribed fee. 1955, c. 45, s. 7. Renewal of licences

(2) Licences to companies may be renewed by the Minister or the Deputy Minister, and licences to individuals may be renewed by the Minister or the Deputy Minister or by any recorder. Who may issue renewals

(3) The renewal shall bear date on the 1st day of April and shall be deemed to have been issued and shall take effect immediately upon the expiration of the licence of which it is a renewal, or of the last preceding renewal, as the case may be. Date and effect of renewal

(4) The renewal shall bear the same number and letter as the original licence and, after it comes into effect, it shall be deemed to be the licence of the licensee. Form

(5) The Minister may renew the licence of any person who has held a miner's licence continuously for twenty-five years or more without the payment of the prescribed fee if application therefor is made to him prior to the expiration of the last renewal. R.S.O. 1950, c. 236, s. 29 (2-5). Renewal of licence by Minister

**28.—(1)** If a miner's licence is accidentally destroyed or lost, the holder may, on payment of the prescribed fee, obtain a duplicate thereof from the office of the Minister, Deputy Minister or any recorder. Accidental destruction or loss of licence

(2) Every such duplicate shall be marked "substituted licence" and shall bear the same date and number as the original licence. R.S.O. 1950, c. 236, s. 30. Substituted licence

**29.—(1)** No person or company shall apply for or hold more than one miner's licence. Not more than one licence

(2) A contravention of this section is an offence against this Act, but, where the Minister is satisfied that there was no improper intent and upon surrender of the unnecessary licence or licences, the Minister may relieve from the penalty and may direct a refund of the fee or fees paid. R.S.O. 1950, c. 236, s. 31. Refund where more than one licence issued

**30.** Every licensee shall upon demand produce and exhibit his licence to an inspector or a recorder. R.S.O. 1950, c. 236, s. 32. Production of licence



Licence to  
date from  
application

**31.** Where application for a licence or a renewal of a licence is made during the absence of a recorder from his office, the applicant may leave with the person in charge of the office his application and such documents as he is required to produce in order to obtain the licence or renewal and the prescribed fee, and in every such case the licence or renewal when issued is as effective as if obtained at the time of the application, and the licence shall bear that date. R.S.O. 1950, c. 236, s. 33.

Licensee  
under  
twenty-one  
years of age

**32.** A licensee under the age of twenty-one years, in respect of mining claims, mining lands and mining rights and all matters and transactions relating thereto, has the same rights and is subject to the same obligations and liabilities as if he were of full age. R.S.O. 1950, c. 236, s. 34.

Revocation  
of licence  
for contra-  
vention of  
Act

**33.**—(1) The Minister, on the recommendation of the Commissioner, may revoke the licence of any licensee who is guilty of a wilful contravention of any of the provisions of this Act, and a licence shall not thereafter be issued to such licensee without the authority of the Minister. R.S.O. 1950, c. 236, s. 35; 1956, c. 47, s. 12.

Suspension  
of licences

(2) The Minister may, upon the recommendation of a recorder, suspend the licence of a licensee who contravenes any of the provisions of this Act. 1955, c. 45, s. 8.

## PART II

### MINING CLAIMS

#### LANDS OPEN

Where  
licensee may  
prospect for  
minerals

**34.** Except where otherwise provided, the holder of a miner's licence may prospect for minerals and stake out a mining claim on any,

- (a) Crown lands, surveyed or unsurveyed;
- (b) lands, the mines, minerals or mining rights whereof have been reserved by the Crown in the location, sale, patent or lease of such lands where they have been located, sold, patented or leased after the 6th day of May, 1913,

not at the time,

- (c) under staking or record as a mining claim that has not lapsed or been abandoned, cancelled or forfeited; or
- (d) withdrawn by any Act, order in council, or other competent authority from prospecting, location or

sale, or declared by any such authority to be not open to prospecting, staking out or sale as mining claims. R.S.O. 1950, c. 236, s. 36.

**35.** A licensee may stake out a mining claim on any land open for prospecting and, subject to the other provisions of this Act, may work such claim and transfer his interest therein to another licensee; but, where the surface rights in the land have been granted, sold, leased or located by the Crown, compensation must be made as provided by section 98. R.S.O. 1950, c. 236, s. 37.

Claim may be staked

#### LANDS NOT OPEN

**36.** No mining claim shall be staked out or recorded upon any land transferred to or vested in the Ontario Northland Transportation Commission without the consent of the Commission nor, except with the consent of the Minister,

Land not open for prospecting without consent

- (a) upon any land reserved or set apart as a town site by the Crown;
- (b) upon any land laid out into town or village lots on a registered plan by the owner thereof;
- (c) upon any land forming the station grounds, switching grounds, yard or right of way of a railway;
- (d) upon any colonization or other road or road allowance. R.S.O. 1950, c. 236, s. 38, *amended*.

**37.** No mining claim shall be staked out or recorded on any land,

Lands upon which claim may not be staked out

- (a) that, without reservation of the minerals, has been sold, located, leased or included in a licence of occupation; or
- (b) for which a *bona fide* application is pending in the Department of Lands and Forests under *The Public Lands Act* or otherwise; or
- (c) that has been reserved or set apart by the Department of Lands and Forests for summer resort purposes, except where the Minister of Mines certifies in writing that in his opinion discovery of valuable mineral in place has been made; or
- (d) where the Minister of Lands and Forests or the Minister of Highways certifies that land is required

R.S.O. 1960, c. 324

for the development of water power or for a highway or for some other purpose in the public interest and the Minister of Mines is satisfied that a discovery of mineral in place has not been made thereon; or

1924, c. 15

(e) in an Indian reserve, except as provided by *The Indian Lands Act, 1924*. R.S.O. 1950, c. 236, s. 39.

Provincial  
parks

**38.** Prospecting or the staking out of mining claims or the development of mineral interests or the working of mines in provincial parks is prohibited except as provided by the regulations made under *The Provincial Parks Act*. 1956, c. 47, s. 2, *part*.

R.S.O. 1960,  
c. 314

Lands used  
or occupied  
as gardens,  
etc.

**39.**—(1) Notwithstanding that the mines or minerals therein have been reserved to the Crown, no person or company shall prospect for minerals or stake out a mining claim upon the part of a lot that is used as a garden, orchard, vineyard, nursery, plantation or pleasure ground, or upon which crops that may be damaged by such prospecting are growing, or on the part of a lot upon which is situated a spring, artificial reservoir, dam or waterworks, or a dwelling house, outhouse, manufactory, public building, church or cemetery, except with the consent of the owner, lessee or locatee of the surface rights, or by order of the recorder or the Commissioner, and upon such terms as to him seem just.

Disputes  
as to lands  
exempt

(2) If a dispute arises between the intending prospector and the owner, lessee or locatee as to land that is exempt from prospecting or staking out under subsection 1, the recorder or the Commissioner shall determine the extent of the land that is so exempt. R.S.O. 1950, c. 236, s. 40; 1956, c. 47, s. 12.

Valuable  
water powers  
not included  
in claim

**40.** A water power lying within the limits of a mining claim, which at low water mark in its natural condition is capable of producing 150 horsepower or upwards, shall not be deemed to be part of the claim for the use of the licensee, and a road allowance of one chain in width shall be reserved on both sides of the water together with such additional area of land as in the opinion of the recorder or the Commissioner may be necessary for the development and utilization of such water power. R.S.O. 1950, c. 236, s. 41; 1956, c. 47, s. 12.

Surface  
operations  
within  
150 feet of  
highway

**41.** Where a mining claim adjoins or is adjacent to a highway or road maintained by the Department of Highways, no surface mining operations shall be carried on within 150 feet of the limits of the highway or road except with the consent in writing of the Minister. 1953, c. 64, s. 1.



**42.—**(1) The Lieutenant Governor in Council may withdraw any lands or mining rights the property of the Crown from prospecting and staking out and from sale or lease. Withdrawal from prospecting and sale

(2) The Lieutenant Governor in Council may reopen for prospecting and staking out and for sale or lease any lands or mining rights so withdrawn. Reopening after withdrawal R.S.O. 1950, c. 236, s. 42.

**43.** The Lieutenant Governor in Council may direct that the mines and minerals in land or mining rights so withdrawn or in any part thereof may be worked by or on behalf of the Crown under and pursuant to regulations made by the Minister. Working on behalf of Crown R.S.O. 1950, c. 236, s. 43.

**44.** Land or mining rights so withdrawn, until reopened by the Lieutenant Governor in Council, shall remain withdrawn, and shall not be prospected, staked out, occupied or worked except by or on behalf of the Crown. Lands withdrawn not to be prospected or worked R.S.O. 1950, c. 236, s. 44.

**45.—**(1) Every officer appointed or acting under this Act, and every assistant of such officer who makes a discovery of valuable mineral upon any lands or mining rights, open to prospecting and staking out as a mining claim, shall stake out and record a parcel thereof of the size and form of a mining claim on behalf of the Crown, and no licence is required for that purpose. Duty of officers of the Crown discovering mineral

(2) No proceeding is necessary for such staking out except Method to plant posts and blaze lines as provided in respect to a mining claim, but the officer or assistant shall mark upon No. 1 post the words "staked out for the Crown", and within the time limited by this Act for recording the claim shall notify the recorder of the staking out, giving the date of staking out and the description of the property.

(3) The recorder upon receiving such notice shall enter the parcel of land upon his record book as staked out on behalf of the Crown, and shall mark it upon his map with the letter "C", and after such staking out the parcel is not open to staking out or recording. Recording R.S.O. 1950, c. 236, s. 45.

**46.** Land or mining rights staked out on behalf of the Crown, and land or mining rights reserved or withdrawn from prospecting, staking out, or sale as mining claims, may be worked, sold, leased or granted by the Crown or worked under an agreement or arrangement with the Crown in such manner and upon such terms and conditions and for such price as is provided by the Lieutenant Governor in Council. Crown may contract for working mining rights under agreement R.S.O. 1950, c. 236, s. 46.

## PROVINCIAL FORESTS

Mining land  
in provincial  
forest not to  
be sold

**47.**—(1) Mining lands in a provincial forest shall not be sold or granted but a lease of such lands may be made for a period not exceeding ten years at a rental payable in advance of \$1 per acre for the first year and 25 cents per acre for each subsequent year, the minimum rental being \$10 for the first year and \$5 for each subsequent year. R.S.O. 1950, c. 236, s. 47 (1); 1953, c. 64, s. 2 (1).

Renewal  
of leases

(2) Every such lease is renewable in perpetuity for periods of ten years and every renewal shall date from the day following the expiration of the lease or last renewal thereof if application therefor is made within ninety days of the expiration of the lease or the last renewal thereof or within such further period as the Minister, in the circumstances of the case, deems proper.

Rate

(3) The annual renewal rental shall be at the rate of 25 cents per acre, but the minimum annual rental is \$5. 1953, c. 64, s. 2 (2).

Termination  
of lease for  
arrears of  
rent

(4) Where payment of the rental under any such lease is in arrears for two years or more, the lease may be terminated by an instrument in writing.

Notice of  
termination  
of lease

(5) Where a lease has not been renewed under subsection 2 or has been terminated under subsection 4, a notice of its termination may be sent to the mining recorder for the mining division in which the lands covered by the lease are situate and to the local master of titles at the land titles office in which instruments affecting the lands covered by the lease may be registered, and such officials shall make a record of such notice upon the records of their offices relating to the title of such lands.

Lands vested  
in Crown on  
termination  
of lease

(6) When a lease is terminated under this section, the lease and all rights and powers therein contained, as well as all rights and claims of the lessee, his successors or assigns in or to the lands covered by the lease, cease, and such lands are vested in the Crown freed and discharged from every claim and are not open for prospecting, staking out or leasing until re-opened by the Lieutenant Governor in Council. R.S.O. 1950, c. 236, s. 47 (3-5).

Permit under  
R.S.O. 1960,  
c. 152

**48.** Before beginning or carrying on any work prescribed by this Act on a mining claim, the holder thereof, in addition to any other requirement, shall obtain a written permit entitling him so to do as provided in *The Forest Fires Prevention Act*. R.S.O. 1950, c. 236, s. 48 (1).

## SIZE AND FORM OF MINING CLAIMS

**49.** A mining claim in unsurveyed territory shall be laid out with boundary lines running north and south and east and west astronomically and the measurements thereof shall be horizontal, and in a township surveyed into lots or quarter sections or subdivisions, of a section, a mining claim shall be such part of a lot or quarter section or subdivision of a section as is hereinafter defined, and the boundaries of all mining claims shall extend downwards vertically on all sides. R.S.O. 1950, c. 236, s. 49.

**50.—(1)** Where the Minister of Lands and Forests certifies that land is suitable for disposition for agricultural purposes, a mining claim staked thereon does not give the staker any right, title or interest in or to the surface rights.

(2) Where surface rights on any such land are necessary to the carrying on of mining operations, the Minister may determine the part of the surface rights so required and, if not previously disposed of, may sell or award the surface rights or such part thereof to the claim holder as he deems essential to the efficient carrying on of mining operations, and he may require the claim holder to have such surveys made at the expense of the claim holder as he considers proper. 1953, c. 64, s. 3.

**51.—(1)** In unsurveyed territory, a mining claim shall be a square of 40 acres, being 20 chains (1,320 ft.) on each side.

(2) In a township surveyed into sections of 640 acres subdivided into quarter sections or subdivisions containing 160 acres or thereabouts, a mining claim shall consist of the northeast quarter, the northwest quarter, the southeast quarter or the southwest quarter of a quarter section or subdivision, and shall contain 40 acres or thereabouts.

(3) In a township surveyed into lots of 320 acres, a mining claim shall consist of the northwest quarter of the north half, the northeast quarter of the north half, the southwest quarter of the north half, the southeast quarter of the north half of a lot, or any like subdivision of the south half of a lot, and shall contain 40 acres or thereabouts.

(4) In a township surveyed into lots of 200 acres, a mining claim shall consist of the northeast quarter, the southwest quarter, the northwest quarter or the southeast quarter of a lot, and shall contain 50 acres or thereabouts.

(5) In a township surveyed into lots of 150 acres, a mining claim shall consist of the northeast quarter, the southeast



quarter, the northwest quarter or the southwest quarter of a lot, and shall contain  $37\frac{1}{2}$  acres or thereabouts.

in townships  
surveyed  
into lots of  
100 acres

(6) In a township surveyed into lots of 100 acres, a mining claim shall consist of the north half, the south half, the east half or the west half of a lot, and shall contain 50 acres or thereabouts. R.S.O. 1950, c. 236, s. 50; 1955, c. 45, s. 10.

Irregular  
areas in  
unsurveyed  
territory,  
marking  
boundaries

**52.**—(1) In unsurveyed territory, an irregular area of land lying between land not open to be staked out, or bordering on water, may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area.

In surveyed  
townships

(2) In a surveyed township where, by reason of land covered with water being excluded from the area of a lot, quarter section or subdivision of a section, or by reason of the lot, quarter section or subdivision being irregular in form, or from any other cause, it is impossible to stake out a mining claim of the prescribed area in accordance with the foregoing provisions of this Act, the mining claim shall as nearly as is practicable be of the prescribed form and area, and shall have such, if any, of its boundaries as can be so made coincident with boundary lines of the lot, quarter section or subdivision of a section, and shall have as many as possible of its boundaries that are not so coincident parallel to boundaries of the lot, quarter section or subdivision which are straight lines, and, where necessary to procure the prescribed area, the mining claim may extend into any part of the lot or quarter section or subdivision of a section, but not into any other lot or quarter section or subdivision of a section, and land lying between parcels of land not open to be staked out or between such land and a boundary or boundaries of the lot, quarter section or subdivision of a section may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area. R.S.O. 1950, c. 236, s. 52 (1, 2).

Claims,  
including  
lands  
covered  
with water

(3) In unsurveyed territory, land covered with water may be included in a claim in the same way as land not covered with water, and in a surveyed township, land covered with water that would, if not covered with water, have been comprised in the area of the lot, quarter section or subdivision of a section, or have constituted a lot, quarter section or subdivision of a section, may be included in a claim as if it were in fact part of such lot, quarter section or subdivision of a section. R.S.O. 1950, c. 236, s. 52 (3); 1953, c. 64, s. 4 (1).

(4) Where a claim includes land covered with or bordering on water, there may be reserved for the Crown the surface rights not exceeding 400 feet in width from the high water mark. <sup>Crown reservation</sup>

(5) Where a claim consists of or partly consists of land under navigable water, a lease or licence only to extract the mineral from the land under the navigable water may be granted. <sup>Land under navigable water</sup>

(6) The annual rental of such lease or licence shall be at the rate of \$1 per acre for the first year and 25 cents per acre for each subsequent year, the minimum annual rental being \$1. 1953, c. 64, s. 4 (2), *part*. <sup>Rate</sup>

(7) Subsections 4, 5 and 6 of section 47 apply *mutatis mutandis* to such leases. 1953, c. 64, s. 4 (2), *part*; 1958, c. 59, s. 2 (1). <sup>Application of sec. 47 (4-6)</sup>

(8) Where payment of the rental under any such licence is in arrears for two years or more, the licence may be terminated by an instrument in writing, and all rights and powers therein contained as well as all rights and claims of the licensee, his successors or assigns, in or to the lands covered by the licence, cease, and upon filing a copy of the instrument in the office of the proper mining recorder the lands shall forthwith be open for staking. <sup>Termination of licences of occupation</sup>

(9) Where there is no adverse interest, the Minister may, upon such terms as he deems just, reinstate a licence terminated under subsection 8. 1958, c. 59, s. 2 (2). <sup>Reinstatement</sup>

**53.—**(1) Where the Minister deems it in the public interest, he may direct that mining claims in a surveyed township shall be staked and recorded in the same manner as mining claims in unsurveyed territory. <sup>Special staking in surveyed townships</sup>

(2) Where the Minister deems it inequitable to require compliance with any of the requirements of section 51 or 52 with respect to a mining claim that has been staked and recorded in a surveyed township, he may waive such requirements. <sup>Waiving section 51 or 52</sup>

(3) Every survey of a mining claim coming under this section shall indicate and describe the parts of the lots or sections, according to the original survey of the township, included within the limits of such claim, together with the areas thereof. R.S.O. 1950, c. 236, s. 53. <sup>Surveys</sup>

#### STAKING OUT CLAIMS

**54.—**(1) A licensee shall not stake out and apply for more than ninety mining claims in a licence year, but not more <sup>Number of claims per licensee</sup>

than eighteen of such mining claims may be staked out and applied for in one mining division or in territory not included in a mining division. 1955, c. 45, s. 12.

Idem

(2) For the purpose of subsection 1, the purchase of sets of metal tags under subsection 1 of section 63 shall be deemed to be mining claims staked out and applied for. 1959, c. 60, s. 1.

Staking out  
and planting

**55.—**(1) A licensee shall stake out a mining claim,

- (a) by planting or erecting a post at each of the four corners of the claim, beginning with and marking that at the northeast corner "No. 1", that at the southeast corner "No. 2", that at the southwest corner "No. 3", and that at the northwest corner "No. 4", so that the number is on the side of the post toward the post next following it in the order named;
- (b) by writing or placing on No. 1 post his name, the letter and number of his licence, the date and hour of the commencement of staking out, and, if the claim is situated in a township surveyed into lots, quarter-sections or subdivisions of a section, the part thereof comprised in the claim, mentioning the lot and concession or the section by number;
- (c) by writing or placing his name and the letter and number of his licence on No. 2, No. 3 and No. 4 posts; and
- (d) by plainly blazing the trees on two sides only where there are standing trees, and cutting the underbrush along the boundary lines of the claim, or where there are not standing trees, clearly indicating the outlines of the claim by planting thereon durable pickets not less than 5 feet in height at intervals of not more than 2 chains (132 feet) or by erecting at such intervals monuments of earth or rock not less than 2 feet in diameter at the base and at least 2 feet high so that the lines may be distinctly seen. R.S.O. 1950, c. 236, s. 55 (1); 1955, c. 45, s. 13.

Witness  
post

(2) Where at a corner of the claim the nature or conformation of the ground renders the planting or erecting of a post impracticable, the corner may be indicated by planting or erecting at the nearest practicable point a witness post bearing the same marking as that prescribed for the corner post at that corner together with the letters "W.P." and an indication of the direction and distance of the site of the true corner from the witness post.



(3) Every post shall stand not less than four feet above the ground, and shall be squared or faced on four sides for at least one foot from the top, and each side shall measure at least four inches across where squared or faced, but a standing stump or tree may be used as a post if cut off and squared and faced to such height and size, and when the survey is made the centre of the tree or stump where it enters the ground shall be taken as the point to or from which the measurement shall be made. R.S.O. 1950, c. 236, s. 55 (2, 3).

(4) Every post shall be a post, standing stump or tree not before used as a post for a mining claim. 1959, c. 60, s. 2.

(5) The following diagrams are intended to illustrate the method of staking out a claim as mentioned in subsections 1 and 2:

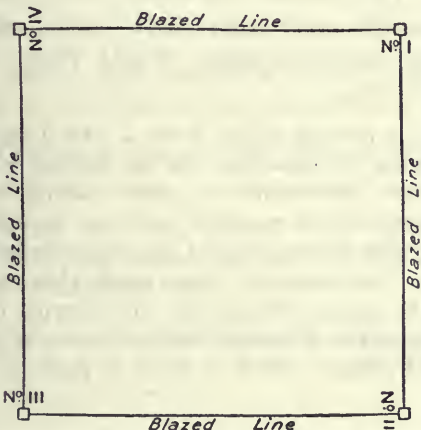


Diagram illustrating s. 55 (1).

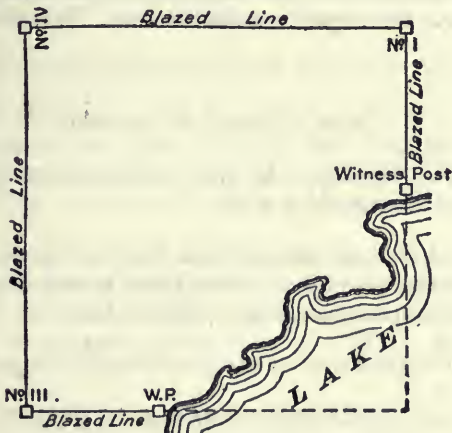


Diagram illustrating s. 55 (2).

R.S.O. 1950, c. 236, s. 55 (4).

Forfeiture  
of right  
to further  
staking

**56.**—(1) A licensee or other person who for any purpose does any staking out or plants, erects or places any stake, post, or marking upon any land open to prospecting except as authorized by this Act, or causes or procures the same to be done, or who stakes out or partially stakes out any such lands, or causes or procures the same to be done, and fails to record the staking out with the recorder within the prescribed time, is not thereafter entitled to again stake out such lands or any part thereof, or to record a mining claim thereon, unless he notifies the recorder in writing of such staking out, partial staking out, or planting, placing or marking and of his abandonment thereof and satisfies the recorder by affidavit that he acted in good faith and for no improper purpose and procures from him a certificate stating that the recorder is satisfied that he so acted.

Entry

(2) The recorder shall enter every such certificate in his books with the date of its issue. R.S.O. 1950, c. 236, s. 56.

Staking out  
claims in  
closed fire  
district  
R.S.O. 1960,  
c. 152

**57.** Where a mining claim is in a fire district and it is staked out during the time that the fire district is closed under *The Forest Fires Prevention Act*, such staking out is invalid and of no effect and the recorder shall not accept an application to record the staking out of the claim unless ordered so to do by the Commissioner upon proof that the person so staking out the claim entered the fire district before it was closed or pursuant to a special authorization of the Minister of Lands and Forests. 1956, c. 47, s. 2, *part.*

Substantial  
compliance  
with Act  
sufficient

**58.** Substantial compliance as nearly as circumstances will reasonably permit with the requirements of this Act as to the staking out of mining claims is sufficient. R.S.O. 1950, c. 236, s. 57.

#### APPLICATIONS TO RECORD

Plan and  
application  
to be  
furnished  
to recorder

**59.**—(1) A licensee who has staked out a mining claim shall furnish the recorder with,

- (a) a sketch or plan of the mining claim showing the corner posts and the witness posts, if any, and the distance between the posts in feet;
- (b) an application in the prescribed form setting forth,
  - (i) in the case of unsurveyed territory, its locality by such general description and other information as will enable the recorder to indicate the claim on his office map,

- (ii) in the case of a surveyed township, the lot, quarter section or subdivision of a section and the part thereof comprising the claim,
  - (iii) the day and hour when the claim was staked out,
  - (iv) the date of the application, and
  - (v) where metal tags have been affixed to the corner posts under section 63, the letters and numbers on the tags so affixed; and
- (c) the prescribed fee. R.S.O. 1950, c. 236, s. 58 (1); 1955, c. 45, s. 14 (1); 1959, c. 60, s. 3.

(2) A licensee shall comply with subsection 1 not later than <sup>Time limit for compliance</sup> thirty-one days from the date of staking. 1957, c. 71, s. 3 (1).

(3) The licensee shall submit with his application and sketch or plan a certificate in the prescribed form stating, <sup>Certificate to accompany application</sup>

- (a) that he has staked out the claim in accordance with this Act;
- (b) that the distances given in his application and sketch or plan are as accurate as they could reasonably be ascertained;
- (c) that all other statements and particulars set forth in the application and shown on the sketch or plan are true and correct;
- (d) that at the time of staking there was nothing upon the lands to indicate that they were not open to be staked and that he believes they were so open;
- (e) that the staking is valid and should be recorded; and
- (f) that there are upon the lands staked no buildings, clearings or improvements for farming or other purposes, except as set forth in the certificate. 1955, c. 45, s. 14 (2), *part*; 1957, c. 71, s. 3 (2).

(4) The recorder or the Commissioner may, after a hearing, <sup>Cancellation of recording</sup> cancel the recording of the claim of a licensee who knowingly makes a false statement in his application under subsection 1 or in his certificate under subsection 3. 1955, c. 45, s. 14 (2), *part*; 1956, c. 47, s. 12.

(5) Where it appears that there has been an attempt made in good faith to comply with this Act, the inclusion of more <sup>Mis-description, when not to invalidate claim</sup> or less than the prescribed area in a mining claim or the failure of the licensee to describe or set out in the application,



sketch or plan furnished to the recorder the actual area or parcel of land staked out does not invalidate the claim. R.S.O. 1950, c. 236, s. 58 (6).

Endorse-  
ment by  
recorder

**60.** A licensee at the time of making application to record a mining claim shall produce his licence to the recorder and the recorder shall endorse and sign upon the back of the licence a note in writing of the record of the claim, and no such record is complete or effective until such endorsement is made unless upon application to or in any case coming before the Commissioner he deems it just that compliance with the requirements of this section should be waived. R.S.O. 1950, c. 236, s. 59; 1956, c. 47, s. 12.

Licensee  
recording  
in another  
division by  
error

**61.** If by error a licensee records a mining claim in a division other than that in which the claim is situate, the error does not affect his title to the claim, but he shall within fifteen days from the discovery of the error record the claim in the division in which it is situate, and the new record shall bear the date of the former record, and a note shall be made thereon of the error and of the date of rectification. R.S.O. 1950, c. 236, s. 60.

What to be  
recorded

**62.—(1)** The recorder shall forthwith enter in the proper book in his office the particulars of every application to record a mining claim that he deems to be in accordance with this Act, unless a prior application is already recorded and subsisting for the same, or for any substantial part of the same lands or mining rights, and he shall file the application, sketch or plan and affidavit with the records of his office, and every application proper to be recorded shall be deemed to be recorded when it is received in the recorder's office, if all requirements for recording have been complied with, notwithstanding that the application may not have been immediately entered in the record book.

Procedure  
when  
refused

**(2)** If an application is presented that the recorder deems to be not in accordance with this Act or that is for lands or mining rights which or any substantial part of which are included in a subsisting recorded claim, he shall not record the application, but shall, if desired by the applicant, upon receiving the prescribed fee, receive and file the application, and any question involved may be adjudicated as provided in this Act, but such filing shall not be deemed a dispute of the recorded claim nor shall it be noted or dealt with as such unless a dispute verified by affidavit is filed with the recorder by the applicant or by another licensee on his behalf as provided in section 64. R.S.O. 1950, c. 236, s. 61 (1, 2).

(3) An application received and filed under subsection 2 is invalid and of no effect sixty days after the receiving and filing unless in the meantime an action is commenced before the recorder or the Commissioner or unless in the meantime the recorder or the Commissioner orders a continuation of the application. Cancellation of "filed only" applications

(4) As soon as an application is invalid and of no effect under subsection 3, the recorder shall mark the application cancelled and by registered letter shall notify the applicant at his last known address in the recorder's office of his action and the reason therefor. 1956, c. 47, s. 3, *part, amended*. Notice to applicant

(5) As soon as is reasonably possible after the recording of the mining claim and not later than six months thereafter, the holder of the claim shall affix or cause to be affixed securely to each of the corner posts of the claim a metal tag plainly marked or impressed with the recorded number and letter or letters of the claim, and the recorder shall supply such numbered tags free of charge. R.S.O. 1950, c. 236, s. 61 (3); 1959, c. 60, s. 4 (1). Tagging claim posts after recording

(6) Subsection 5 does not apply to mining claims on which the metal tags have been affixed to the corner posts at the time of staking under section 63. 1959, c. 60, s. 4 (2). Application of subs. 5

(7) Upon receipt of a written report by an inspector or other officer appointed under this Act that the metal tags have not been affixed within the prescribed time or such further time as is authorized by the Commissioner under section 92, the recorder shall cancel the claim and shall by registered letter mailed not later than the next day notify the holder thereof of his action and the reason therefor. R.S.O. 1950, c. 236, s. 61 (4); 1956, c. 47, s. 12. Cancellation of claim where metal tags not affixed

(8) Notwithstanding subsection 4 of section 96, where the metal tags have not been affixed as required by subsection 5, any licensee may stake the claim but the recorder shall not record his application therefor until cancellation has been effected under subsection 7. 1956, c. 47, s. 3, *part*; 1959, c. 60, s. 4 (3). Staking out pending cancellation

**63.**—(1) A licensee may purchase from the proper mining recorder sets of metal tags for the number of mining claims that he is entitled to stake under section 54, and the purchase of such tags and the date thereof shall be endorsed by the mining recorder on the licence of the purchaser. Issuing of claim tags before staking

(2) The fee for metal tags purchased under subsection 1 is \$1 per set, which shall be deducted by the mining recorder from the fee prescribed in item 4 or item 25 of the Schedule of Fees when the licensee presents an application to record a Fees

mining claim on which he has used a set of metal tags so purchased.

Affixing  
of claim  
tags

(3) A licensee purchasing metal tags under this section shall affix the metal tags to the corner posts at the time of staking out a mining claim and otherwise the staking out and recording shall be in the manner provided in this Act.

Idem

(4) Metal tags purchased under this section shall be used in staking out claims only by the licensee who purchased them and they shall not be used in staking out claims after the expiry of the licence year in which they were purchased and there shall be no refund of the fee paid for any unused metal tags.

Tags to be  
used in  
mining  
division  
where issued

(5) Metal tags purchased under this section shall be used only for staking out mining claims in the mining division in which they were issued.

Metal tags  
must be  
used

(6) A licensee shall not stake out a claim to which subsection 5 of section 62 applies in a mining division while he holds any unexpired metal tags issued under this section in such division.

Affixing of  
claim tags  
to be stated  
in applica-  
tion to  
record

(7) Where metal tags are affixed to the corner posts at the time of staking as provided in subsection 3, the licensee who stakes out the claim shall so state in his application to record the mining claim.

Cancellation  
of claim  
where metal  
tags not  
affixed

(8) Upon receipt of a written report by an inspector or other officer appointed under this Act that the metal tags have not been affixed at the time of staking as required by subsection 3, the recorder shall cancel the claim, and shall by registered letter mailed not later than the next day notify the holder thereof of his action and the reason therefor.

Staking out  
pending  
application

(9) Notwithstanding subsection 4 of section 96, where the metal tags have not been affixed as required by subsection 3, any licensee may stake the claim but the recorder shall not record his application until cancellation has been effected under subsection 8. 1959, c. 60, s. 5.

#### DISPUTING APPLICATIONS

Dispute of  
recorded  
claim

**64.**—(1) A dispute in the prescribed form, verified by affidavit in the prescribed form, may be filed with the recorder by a licensee alleging that a recorded claim is illegal or invalid in whole or in part and, if the disputant or the licensee in whose behalf he is acting claims to be entitled to be recorded for or to be entitled to any right or interest in the lands or mining rights, or in any part thereof, comprised in the disputed claim, the dispute shall so state, giving particulars, and the



recorder shall, upon payment of the prescribed fee, receive and file such dispute, and shall enter a note thereof upon the record of the disputed claim.

(2) A copy of the dispute and affidavit shall be left by the disputant with the recorder who shall not later than the next day after the filing of the dispute transmit the copy by registered mail to the recorded holder or holders of the mining claim affected thereby, and, if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant 10 cents per folio for making the copy. R.S.O. 1950, c. 236, s. 62 (1, 2). Copy to be sent to recorded holder

(3) The dispute shall contain or have endorsed upon it an address in Ontario at which the disputant may be served with any notice or document relating to the dispute, and any such notice or document is sufficiently served upon the disputant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered mail addressed to the disputant at such address. Address for service

(4) If no address for service is given as required by subsection 3, any notice or document referred to therein may be served upon the disputant by posting up a copy thereof in the recorder's office. 1954, c. 53, s. 2. Idem

(5) A dispute shall not be received or entered against a claim after a certificate of record thereof has been granted, nor, except by leave of the Commissioner, after the validity of the claim has been adjudicated upon by the recorder or by the Commissioner, or after it has been on record for sixty days and has already had a dispute entered against it. R.S.O. 1950, c. 236, s. 62 (4); 1956, c. 47, s. 12. Not to be received after certificate issued

#### CERTIFICATE OF RECORD

**65.** Where a claim has been on record for sixty or more days and, Certificate of record

- (a) if no dispute is standing against the claim; and
- (b) if the recorder is satisfied that the requirements of this Act have been met; and
- (c) if the surface rights compensation, if any, has been paid or secured; and
- (d) if the plan of survey is filed and approved where required under section 109 or 110; and
- (e) upon payment of the prescribed fee,

the recorder shall issue a certificate of record in the prescribed form. 1954, c. 53, s. 3.

Effect of  
issue and  
delivery of  
certificate  
of record

**66.** The certificate of record, in the absence of mistake or fraud, is final and conclusive evidence of the performance of all the requirements of this Act, except working conditions, in respect of the mining claim up to the date of the certificate, and thereafter the mining claim is not, in the absence of mistake or fraud, liable to impeachment or forfeiture except as expressly provided by this Act. R.S.O. 1950, c. 236, s. 64.

Cancelling  
certificate of  
record issued  
by mistake,  
etc.

**67.** Where the certificate of record has been issued in mistake or has been obtained by fraud, the Commissioner has power to revoke and cancel it on the application of the Crown or an officer of the Department, or of any person interested. R.S.O. 1950, c. 236, s. 65; 1956, c. 47, s. 12.

#### RIGHTS OF LICENSEE

Rights in  
claim

**68.**—(1) The staking out or the filing of an application for or the recording of a mining claim, or all or any of such acts, does not confer upon a licensee any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to obtain a certificate of record and a patent from the Crown, and prior to the issue of a certificate of record the licensee is merely a licensee of the Crown, and after the issue of the certificate and until he obtains a patent he is a tenant at will of the Crown in respect of the mining claim. R.S.O. 1950, c. 236, s. 66.

Surface  
rights

(2) The holder of a mining claim does not have any right, title or claim to the surface rights of the claim other than the right to enter upon, use and occupy such part or parts thereof as are necessary for the purpose of prospecting and the efficient exploration, development and operation of the mines, minerals and mining rights therein. 1957, c. 71, s. 5.

Taxation

(3) The holder of an unpatented mining claim is not liable to assessment or taxation for municipal or school purposes in respect of such unpatented mining claim. 1954, c. 53, s. 4.

Free assays

**69.**—(1) Every licensee who stakes out and records a mining claim may obtain from the recorder two free assay coupons on recording it and two additional free assay coupons on recording each forty days work thereafter and on forwarding or delivering, charges prepaid, samples from the mining claim to the Provincial Assayer, Toronto, together with the required number of coupons, as provided in the regulations, is entitled to have the samples assayed without charge, but in no case is a licensee entitled to more than eighteen free assay coupons in a license year. R.S.O. 1950, c. 236, s. 67 (1); 1955, c. 45, s. 15.

(2) Every free assay coupon is valid only for a period of <sup>Validity of coupons</sup> two years after the date of its issue. R.S.O. 1950, c. 236, s. 67 (2).

**70.**—(1) Where the recorded holder of a mining claim <sup>Where claim abandoned, cancelled or forfeited</sup> abandons the claim or where the claim is cancelled or forfeited under this Act, he may take from the claim any buildings, structures, machinery and chattels or personal property within six months after the abandonment, cancellation or forfeiture, or within such further time as is fixed by the Commissioner, and any such buildings, structures, machinery and property remaining on the claim after the expiry of such time belongs to the Crown in right of Ontario. R.S.O. 1950, c. 236, s. 68 (1); 1956, c. 47, s. 12.

(2) Where at the time of the staking of a mining claim a <sup>Building or structure on mining claim</sup> building or other structure is located on the claim, the building or other structure, subject to subsection 1, belongs to the Crown in right of Ontario and may be sold or otherwise disposed of by the Minister upon such terms and conditions as he deems expedient. R.S.O. 1950, c. 236, s. 68 (2), *amended*.

**71.** The staking or recording of a mining claim does not <sup>Right of licensee to sand, gravel and stone</sup> confer upon the licensee the right to take or remove any sand, gravel or stone therefrom. 1951, c. 51, s. 1.

**72.** Where land is staked out and applied for as a mining claim but for use other than as mining land or the purposes <sup>Cancellation of claim for non-mining use</sup> of the mineral industry within the meaning of section 7, the Lieutenant Governor in Council may direct that the claim be cancelled and, on the filing of a copy of an order in council in that behalf with the recorder for the mining division in which the land is situate, the claim is cancelled and annulled. R.S.O. 1950, c. 236, s. 70, *amended*.

**73.**—(1) Where the Minister recommends the establish- <sup>Townsites on unpatented claims</sup> ment or extension of a townsite on an unpatented mining claim, the Lieutenant Governor in Council may reserve the surface rights on any such claim or parts of any such claim as may be necessary for townsite purposes. 1954, c. 53, s. 5, *part*; 1955, c. 45, p. 16 (1).

(2) The Lieutenant Governor in Council may make such <sup>Regulations</sup> regulations as he deems necessary for the better carrying out of this section. 1954, c. 53, s. 5, *part*, *amended*.

#### ADDRESS FOR SERVICE

**74.**—(1) Every application for a mining claim and every <sup>Address for service to be on application for claim, etc.</sup> other application and every transfer or assignment of a mining claim or of a right or interest acquired under this Act shall



contain or have endorsed thereon the place of residence and post office address of the applicant, transferee or assignee, and also, when he is not resident in Ontario, the name, residence and post office address of a person resident in Ontario upon whom service may be made.

Irregular documents not to be filed  
Substituting new agent for service

(2) No such application, transfer or assignment shall be filed or recorded unless it conforms with subsection 1.

(3) Another person resident in Ontario may be substituted as the person upon whom service may be made by filing, in the office in which such an application, transfer or assignment is filed or recorded, a memorandum setting forth the name, residence and post office address of such other person, and such a substitution may be made from time to time as occasion requires.

Service upon agent to be sufficient

(4) Service upon the person named as the person upon whom service may be made, unless another person has been substituted for him under subsection 3 and in case of such substitution upon the person substituted, has the same effect as service upon the person whom he represents.

General application of section

(5) Subsection 4 applies to every notice, demand or proceeding in any way relating to a mining claim or to mining rights or to any other right or interest that may be acquired under this Act. R.S.O. 1950, c. 236, s. 71.

#### TRUSTS, AGREEMENTS AND TRANSFERS

Claim "in trust"

**75.**—(1) Notice of a trust, express, implied or constructive, relating to an unpatented mining claim shall not be entered on the record or be received by a recorder.

Describing licensee as trustee, etc., effect of

(2) Describing the holder of the mining claim as a trustee, whether the beneficiary or object of the trust is mentioned or not, does not impose upon any person dealing with such holder the duty of making any inquiry as to his power to deal therewith, but the holder may deal with the claim as if such description had not been inserted.

Saving of rights of others

(3) Nothing in this section relieves the holder of the mining claim who is in fact a trustee thereof or of any part or share thereof or interest therein from liability as between himself and any person, mining partnership or company for whom he is a trustee, but such liability continues as if this section had not been enacted, nor shall any provision in this Act relieve the holder from any personal liability or obligation. R.S.O. 1950, c. 236, s. 72.

Agreements and transfers, necessity for writing

**76.**—(1) No person is entitled to enforce any claim, right or interest, contracted for or acquired before the staking out, to or in or under any staking out or recording of a mining

claim or of any mining lands or mining rights done in the name of another person unless the fact that the first-mentioned person is so entitled is made to appear by a writing signed by the holder of the claim or by the licensee by whom or in whose name the staking out or recording was done or the evidence of the first-mentioned person is corroborated by some other material evidence, and, where a right or interest is so made to appear, *The Statute of Frauds* does not apply.

R.S.O. 1960,  
c. 381

(2) No person is entitled to enforce any contract, made after the staking out, for sale or transfer of a mining claim or any mining lands or mining rights, or any interest in or concerning the same, unless the agreement or some note or memorandum thereof is in writing signed by the person against whom it is sought to enforce the contract or by his agent thereunto by him lawfully authorized. R.S.O. 1950, c. 236, s. 73.

Sales or  
transfers  
after stak-  
ing out

**77.** A transfer of an unpatented mining claim or of an interest therein may be in the prescribed form and shall be signed by the transferor or by his agent authorized by instrument in writing. R.S.O. 1950, c. 236, s. 74.

Transfer,  
form of

#### RECORDING DOCUMENTS

**78.** Except as in this Act otherwise expressly provided, no transfer or assignment of or agreement or other instrument affecting a mining claim or a recorded right or interest acquired under this Act shall be entered on the record or received by a recorder unless it purports to be signed by the recorded holder of the claim or right or interest affected or by his agent authorized by recorded instrument in writing, nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument. R.S.O. 1950, c. 236, s. 75.

Recording  
instruments

**79.** After a mining claim or other right or interest acquired under this Act has been recorded, every instrument other than a will affecting the claim or an interest therein is void as against a subsequent purchaser or transferee for valuable consideration without actual notice unless the instrument is recorded before the recording of the instrument under which the subsequent purchaser or transferee claims. R.S.O. 1950, c. 236, s. 76.

Priority

**80.** The recording of an instrument under this Act constitutes notice of the instrument to all persons claiming an interest in the claim subsequent to such recording, notwithstanding any defect in the proof for recording, but nevertheless

Recording  
to be notice

it is the duty of the recorder not to record except upon the proof required by this Act. R.S.O. 1950, c. 236, s. 77.

Where  
actual notice  
prevails

**81.** Priority of recording prevails unless before the prior recording there has been actual notice of the prior instrument by the party claiming under the prior recording. R.S.O. 1950, c. 236, s. 78.

Recording  
orders and  
judgments

**82.—(1)** The recorder shall enter upon the record of any unpatented mining claim or other recorded right or interest a note of any order or decision made by him affecting the same, giving its date and effect and the date of the entry, and he shall, upon receiving with the prescribed fee an order or decision of the Commissioner, or an order, judgment or certificate in an appeal from him, or a certified or sworn copy thereof, file the same and enter a note thereof upon the record of the claim or right or interest affected thereby.

Recording  
certificate of  
*lis pendens*

(2) In a proceeding calling in question an interest in an unpatented mining claim or other recorded right or interest, the Commissioner or recorder may issue a certificate in the prescribed form and, upon receipt thereof and payment of the prescribed fee, the recorder shall file and note it as above directed.

Filing  
certificate  
to be notice

(3) The filing of a certificate is actual notice to all persons of the proceeding.

Duration of  
certificate of  
*lis pendens*

(4) The certificate, and the filing and noting thereof, are of no effect for any purpose whatever after the expiration of ten days from the date of filing unless within that time an order continuing the certificate is obtained from the Commissioner or the recorder, and any person interested may at any time apply to the Commissioner for an order vacating the certificate.

Notification  
of continu-  
ance or  
vacating of  
*lis pendens*

(5) On receipt by the recorder of such order, he shall forthwith transmit by registered mail a copy of the order to every recorded holder of an interest in the mining claim.

Execution  
against  
claims, etc.

(6) A copy of a writ of execution, certified by the sheriff of the county or district or a bailiff of a division court therein to be a true copy of a writ in his hands, may be filed with the recorder, and the recorder, upon receiving the prescribed fee and being given the number or description of the claim, shall enter a note of such execution upon the record of each claim of which the execution debtor is the recorded holder or in which he has a recorded interest, and from and after, but not before, such entry, the execution binds all the right or interest of the execution debtor in the claim, and after such entry the sheriff or bailiff has power to sell and realize upon such right



or interest in the same way as goods and chattels may be sold and realized upon under execution, and a transfer from the sheriff or bailiff to the purchaser may, upon the latter becoming, if he is not before, a licensee, be recorded in like manner and with the same effect as a transfer from the execution debtor.

(7) Such certified copy of the writ of execution may be obtained from the sheriff or bailiff on payment of a fee of \$1, <sup>Certified copy, fee therefor</sup> which fee, together with the fee paid for recording the execution, shall be added to the execution debt.

(8) After entry of such an execution upon the record of the claim, the sheriff, bailiff or the execution creditor may do anything that the execution debtor could do to keep the claim or interest in or restore it to good standing, <sup>Keeping claim in good standing after entry of execution</sup> and he is entitled to add the necessary expense thereof to the execution debt.

(9) Such an execution may be discharged by recording a certificate from the sheriff or bailiff that it has been satisfied or by recording a release from the execution creditor or by obtaining and filing an order of the Commissioner directing its removal. <sup>Discharge of execution</sup> R.S.O. 1950, c. 236, s. 79; 1956, c. 47, s. 12.

#### WORKING CONDITIONS

**83.**—(1) The recorded holder of a mining claim shall, <sup>Working conditions on mining claims</sup> within five years immediately following the recording thereof, perform or cause to be performed thereon work consisting of stripping or opening up mines, sinking shafts or other actual mining operations to the extent of 200 days work, which work shall be performed as follows:

1. First period of at least forty days, not later than one year immediately following the recording of the claim.
2. Second period of at least forty days, not later than two years after date of recording.
3. Third period of at least forty days, not later than three years after date of recording.
4. Fourth period of at least forty days, not later than four years after date of recording.
5. Fifth period of at least forty days, not later than five years after date of recording. R.S.O. 1950, c. 236, s. 80 (1); 1959, c. 60, s. 6.

(2) The work may be completed in a less period of time <sup>Work done within earlier period and allowance for excess</sup> than herein specified and, if more work is performed by or on

behalf of the recorded holder than is herein required during the first year or in a subsequent year, the excess, upon proof of the work having been performed, shall be credited by the recorder upon the work required to be done during a subsequent year. R.S.O. 1950, c. 236, s. 80 (2).

Work  
reports

(3) The recorded holder of a mining claim shall, not later than ten days after each of the periods specified, make a report in the prescribed form as to the work done or caused to be done by him during such period, verified by certificate in the prescribed form, and the report shall show in detail,

- (a) the location, nature and extent of the work;
- (b) the names and addresses of the men who performed the work; and
- (c) the dates upon which each man worked in its performance,

and, in the case of diamond or other core drilling, the report shall be accompanied by a core log in duplicate indicating the footages of the rock types encountered, and the angle and direction of the drill hole, and by a sketch or plan in duplicate fixing the location of the drill hole in relation to the corner posts of the claim. R.S.O. 1950, c. 236, s. 80 (3); 1953, c. 64, s. 5; 1955, c. 45, s. 17 (1).

Certificate  
of perform-  
ance

(4) The recorder, if satisfied that the prescribed work has been duly performed, may grant a certificate in the prescribed form, but he may first, if he deems proper, inspect or order the inspection of the work or otherwise investigate the question of its sufficiency, and such certificate, in the absence of fraud or mistake, is final and conclusive evidence of the due performance of the work therein certified, but where it has been issued in mistake or obtained by fraud the Commissioner has power to revoke and cancel it upon the application of the Crown or an officer of the Department or any person interested.

Decision  
final

(5) The decision of the Commissioner as to the due performance of work is final. R.S.O. 1950, c. 236, s. 80 (4, 5); 1956, c. 47, s. 12.

Work to be  
performed  
on claims

(6) A licensee may perform, or cause to be performed, on one or more unpatented claims all of the work required to be performed in respect of not more than eighteen contiguous claims recorded in his name or of which he is the optionee of record, and the reports of work and certificates to be filed in respect of the work shall indicate the claim or claims on which the work was performed and the claim or claims upon which it is to be applied. 1955, c. 45, s. 17 (2); 1958, c. 59, s. 3.

(7) The construction of houses or roads or other like improvements does not constitute "actual mining operations" within the meaning of this section. R.S.O. 1950, c. 236, s. 80 (8). Certain works not regarded as work

**84.**—(1) When the plan and field notes of a survey of a mining claim made under section 109 or 110 are filed with the mining recorder within the prescribed time, the survey counts as forty days work on the surveyed claim. R.S.O. 1950, c. 236, s. 81 (1); 1957, c. 71, s. 6 (1), *revised*. Survey to count as work

(2) On receipt of an affidavit by an Ontario land surveyor that he has made a survey of a mining claim within the period during which work is required by this Act to be done on such claim and his undertaking that he will forward or cause to be forwarded to the recorder, not later than two months after the close of the period for doing the work, plans and field notes of the survey, the recorder may enter upon the record of the claim forty days work and he may cancel the entry in default of receipt of the plans and field notes within such period of two months. R.S.O. 1950, c. 236, s. 81 (2); 1957, c. 71, s. 6 (2). before plans filed

(3) Where work has been recorded with the mining recorder under subsection 1 or 2 and the survey of the mining claim does not comply with section 109 or 110 or the regulations, the Minister may direct the mining recorder to cancel the work and thereupon the mining recorder shall cancel the entry on the record. Cancellation of work

(4) Subsection 6 of section 83 does not apply to work recorded under subsection 1 or 2. 1957, c. 71, s. 6 (3). Where s. 83, subs. 6, not to apply

(5) Where the length of the drill hole is more than 25 feet, boring by diamond or other core drill counts as work, Diamond or other core drills

(a) where the core from the drill is less than  $\frac{7}{8}$  of an inch in diameter or the length of the drill hole is 100 feet or less, at the rate of one day's work for each 4 feet of boring; and

(b) where the core from the drill is  $\frac{7}{8}$  of an inch or more in diameter and the length of the drill hole is greater than 100 feet, at the rate of one day's work for each foot of boring. 1959, c. 60, s. 7 (1).

(6) Boring by other than core drill to a depth greater than 1,000 feet may be counted as work at the rate of one day's work for each 2 feet of drilling, Boring by other than core drill

(a) if the minister issues a permit in the prescribed form authorizing the work;



- (b) if the permit is filed in the office of the recorder before the work is commenced; and
- (c) if the recorded holder files with the report required under subsection 3 of section 83 a log in duplicate indicating the footages of the types of rock, earth or other substances penetrated and the angle and direction of the drill hole and a sketch or plan in duplicate fixing the location of the drill hole in relation to the corner posts of the claim. 1955, c. 45, s. 18 (2).

Mechanical  
equipment

(7) Work done by mechanical equipment of a type approved by the Minister counts as work at the rate of one day's work in respect of each man necessarily employed in operating such equipment for each three hours of his employment, but credit shall not be given for more than two operators for each of such equipment without the consent of the Minister, and credit shall not be given for more than twelve hours in any day in respect of any operator. 1959, c. 60, s. 7 (2).

Surveys

(8) A geophysical survey, satisfactory to the Minister, of a mining claim may be recorded as work on the claim, subject to,

- (a) ground surveys at the rate of four days' work in respect of each man necessarily employed in the survey for each eight hours of his employment but no credit shall be given for more than twelve hours in any day in respect of any man; and
- (b) airborne magnetic surveys at the rate of twenty days work in respect of each mile of continuous recordings,

but not more than a total of forty days work may be recorded in respect of each claim, and credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to and approved by him within sixty days of the recording of the work. R.S.O. 1950, c. 236, s. 81 (5); 1959, c. 60, s. 7 (3).

Geological  
survey to  
count as  
work

(9) A geological survey of a mining claim satisfactory to the Minister may be recorded as work on the claim at the rate of four days' work in respect of each man necessarily employed in the survey for each eight hours of the employment not exceeding a total of forty days' work in respect of each claim, but no credit shall be given for more than twelve hours in any day in respect of any man and credit for the work shall be cancelled by the recorder unless full reports and plans of the survey, satisfactory to the Minister, are submitted to and approved by the Minister within sixty days of the recording of the work. 1959, c. 60, s. 7 (4).

(10) The actual cost of stripping by other than manual <sup>Stripping</sup> labour may be recorded as work on a mining claim at the rate of one day's work for each \$10 so spent not exceeding 100 days work in respect of each claim, but credit for the work shall be cancelled unless proof of the actual cost is submitted to and accepted by the Minister within thirty days of the recording of the work. R.S.O. 1950, c. 236, s. 81 (7); 1953, c. 64, s. 6 (2).

(11) Subsection 6 of section 83 does not apply to geological <sup>Certain work excepted from s. 83, subs. 6</sup> and geophysical work, and for the purposes of this Act, such work shall be deemed to have been performed equally on each claim actually covered by the survey, and shall be recorded accordingly, and in no other way. R.S.O. 1950, c. 236, s. 81 (8).

(12) Shaft sinking, drifting or other lateral work that is <sup>Shaft sinking, etc.</sup> at least 10 feet below the surface and the opening of which is at least 5 feet by 7 feet counts as work at the rate of four days' work in respect of each man employed in the work for each six hours of the employment, but no credit shall be given for more than twelve hours in any day in respect of any man.

(13) Manual work as prescribed in section 83 and not <sup>Manual work</sup> otherwise provided for in this section counts as work at the rate of one day's work for each six hours of each man's employment, but no credit shall be given for more than twelve hours in any day in respect of any man. 1959, c. 60, s. 7 (5).

**85.** In computing the time within which work upon a <sup>Computing time for performance of working conditions</sup> mining claim is required to be performed,

- (a) all time which by an order in council or regulation is excluded;
- (b) if a permit under *The Forest Fires Prevention Act*, <sup>R.S.O. 1960, o. 152</sup> which is necessary for the beginning or carrying on of the work under this Act, is refused or the performance of such work is prohibited under that Act, the time during which such refusal or prohibition subsists,

shall be excluded. R.S.O. 1950, c. 236, s. 82.

**86.**—(1) If by reason of pending proceedings or incapacity <sup>Extension or time for work</sup> of the holder of a mining claim the work is not performed or the metal tags have not been affixed or the money required for patent or lease is not paid within the prescribed time, the recorder may extend the time for the performance of the work or the affixing of the metal tags or the payment of the money for periods not exceeding six months.

Medical  
certificate

(2) Where the work has not been performed or the metal tags have not been affixed or payment for patent or lease has not been made because of the incapacity from illness of the holder of the claim, the recorder may extend the time only upon the production and filing with him of a certificate of a duly qualified medical practitioner indicating that the holder has by reason of illness been rendered incapable of performing the work or affixing the metal tags or paying the money. 1957, c. 71, s. 7 (1).

Work  
done during  
extension

(3) Work performed within any such extended period shall be deemed to have been duly performed under section 83. R.S.O. 1950, c. 236, s. 83 (3).

Proportion-  
ate contri-  
bution by  
co-owners

**87.**—(1) Where two or more persons are the holders of an unpatented mining claim, each of them shall contribute proportionately to his interest, or as they otherwise agree between themselves, to the work required to be done thereon or to a survey, patent or the first year's rental of a lease, and, in case of default by any holder, the Commissioner, upon the application of any other holder and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest of the defaulter in the other co-owners or in any of them upon such terms and conditions and in such proportions as he deems just. R.S.O. 1950, c. 236, s. 84 (1); 1956, c. 47, s. 12.

Application  
of subs. 1

(2) Subsection 1 applies to all mining claims staked out or applied for on or after the 14th day of May, 1906, or before that day under regulations made under *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897. R.S.O. 1950, c. 236, s. 84 (2).

Charge  
of person  
doing work  
on mining  
claim

**88.** Where the holder of an interest in a mining claim has made default in payment for work performed thereon by a person not the holder of an interest in the mining claim, the Commissioner, upon the application of such person and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest in the mining claim of the holder in default, or any part of such interest, in the applicant. R.S.O. 1950, c. 236, s. 85; 1956, c. 47, s. 12.

#### ABANDONMENT

Right of  
licensee to  
abandon

**89.**—(1) A licensee may abandon a mining claim at any time by giving notice in writing in the prescribed form to the recorder of his intention so to do.

Entry of  
note of  
abandon-  
ment

(2) The recorder shall enter a note of the abandonment upon the record of the claim with the date of the receipt of the



notice and shall forthwith post up in his office a notice of the abandonment, marked with the date of the posting up thereof, and thereupon all interest of the licensee in the claim ceases and determines, and the claim is, on and after, but not before, the eleventh day after such posting up, inclusive of the day of posting up, open for prospecting and staking out. R.S.O. 1950, c. 236, s. 86.

**90.** Non-compliance by the licensee with any requirement of this Act as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out. R.S.O. 1950, c. 236, s. 87; 1956, c. 47, s. 12.

Effect  
of non-  
compliance  
with Act or  
direction of  
recorder as  
to abandon-  
ment

#### FORFEITURE

**91.**—(1) Except as provided by section 92, all the interest of the holder of a mining claim before its patent has issued ceases without any declaration, entry or act on the part of the Crown or by any officer, and the claim is open for prospecting and staking out,

Forfeiture  
of mining  
claim

- (a) if the licence of the holder has expired and has not been renewed;
- (b) if, without the consent in writing of the recorder or Commissioner, or for any purpose of fraud or deception or other improper purpose the holder removes or causes or procures to be removed any stake or post forming part of the staking out of such mining claim, or for any such purpose changes or effaces or causes to be changed or effaced any writing or marking upon any such stake or post;
- (c) if the prescribed work is not duly performed;
- (d) if any report under subsection 3 of section 83 is not made and deposited with the recorder as therein required;
- (e) if the application and payment for the patent required by sections 100 and 101 are not made within the prescribed time.

(2) No person, other than the Minister or an officer of the Department or a licensee interested in the property affected, is entitled to raise any question of forfeiture except by leave

Proceedings  
as to  
forfeiture

of the Commissioner, and proceedings raising questions of forfeiture shall not be deemed to be or be entered as disputes under section 64. R.S.O. 1950, c. 236, s. 88; 1956, c. 47, s. 12.

Relief  
against  
forfeiture

**92.**—(1) Where forfeiture or loss of rights occurs under subsection 1 of section 91 and,

- (a) where the licence of the claim holder has expired, the Commissioner may make an order upon such terms as he considers just relieving the claim from forfeiture and authorizing a special renewal of the licence on payment of twice the prescribed fee; or
- (b) where the prescribed work is not performed within the time stipulated in subsection 1 of section 83, the Commissioner, within six months of the forfeiture, may make an order or orders upon such terms as he considers just relieving the claim from forfeiture and extending the time for performing the work; or
- (c) where the report of work is not filed within the time prescribed in subsection 3 of section 83, the Commissioner, within six months of the forfeiture, may make an order upon such terms as he considers just relieving the claim from forfeiture and authorizing the filing of a proper report of work; or
- (d) where application and payment for the patent or lease are not made within the time prescribed in subsection 2 of section 100, the Commissioner, within six months of the forfeiture, may make an order upon such terms as he considers just relieving the claim from forfeiture and extending the time for applying and paying for the patent or lease, but in no case shall the time for so doing be extended beyond five years of the time prescribed in subsection 2 of section 100. 1954, c. 53, s. 7; 1956, c. 47, s. 12; 1958, c. 59, s. 4 (1); 1959, c. 60, s. 8 (1).

Extension  
of time

(2) If application is made to the Commissioner within thirty days before the time forfeiture or loss of rights would occur, he may make an order or orders granting an extension of time in respect of one or both of the following:

1. For affixing the metal tag to the corner posts of the claim.
2. For performing any work required to be performed. 1958, c. 59, s. 4 (2).

(3) Paragraph 1 of subsection 2 does not apply to metal tags required to have been affixed under section 63. 1959, c. 60, s. 8 (2). Tags under section 63

(4) Within thirty days before forfeiture or loss of rights Idem would occur, the Commissioner may make an order extending the time for paying and applying for patent or lease, but in no case shall the time for so doing be extended beyond five years of the time prescribed in subsection 2 of section 100. 1956, c. 47, s. 4 (2).

(5) Where the Commissioner extends the time for performing work, the report of its performance shall be filed Filing of report within such extended time.

(6) Where forfeiture or loss of rights has occurred, the lands, Re-staking mining rights or mining claims concerned are not open for staking until 7 o'clock in the forenoon of the day immediately following that upon which forfeiture or loss of rights occurred.

(7) No order made by the Commissioner under this section comes into effect until it is filed in the office of the mining recorder for the mining division in which the claims are situate and until the prescribed fees are paid. Filing of orders

(8) The recorder, upon a forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record of the claim "Cancelled", and shall post up forthwith in his office a notice of cancellation. 1953, c. 64, s. 7, *part*; 1956, c. 47, s. 12. Cancellation of record

**93.** Where the interest of a joint holder has ceased by reason of the expiration of his licence, such interest, if the Commissioner so directs, passes to and vests in the other holders in proportion to their interests in the claim. R.S.O. 1950, c. 236, s. 90; 1956, c. 47, s. 12. Interest of joint holder on expiry of his licence

**94.** Where a licensee in whose name a mining claim has been staked out dies before the claim is recorded or where the holder of a claim dies before issue of the patent or lease for the claim, no other person is, without leave of the Commissioner, entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, and the Commissioner may at any time make such order as he deems just for vesting the claim in the representative of such holder and extending the time for performing the work and applying for patent or lease, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act. 1958, c. 59, s. 5. Death of licensee or holder



## INSPECTION OF CLAIMS

Inspection  
by Commis-  
sioner,  
recorder or  
inspector

**95.**—(1) The Commissioner or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect, a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether this Act has been complied with, but after the granting of the certificate of record no such inspection shall, except by order of the Commissioner, be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner. R.S.O. 1950, c. 236, s. 92 (1); 1956, c. 47, s. 12.

Application  
for re-  
inspection

(2) Unless notice of the inspection has been given to the holder of the claim at least seven clear days prior thereto, either personally or by registered mail addressed to him at his address appearing on record in the recorder's books, he may apply to the Commissioner or to the recorder for a re-inspection and it shall be granted if it appears that the holder of the claim has been prejudiced by the want of notice and every such application for reinspection shall be made to the Commissioner or to the recorder within fifteen days of the entry of the decision on the books of the recorder or within such further period not exceeding fifteen days as the Commissioner allows. R.S.O. 1950, c. 236, s. 92 (2); 1957, c. 71, s. 8.

View or  
inspection  
in disputes,  
appeals, etc.

(3) The Commissioner or recorder may in any dispute, appeal or other proceeding before him make or order, with or without notice, a view or inspection of any mining claim or of any lands or other property. R.S.O. 1950, c. 236, s. 92 (3); 1956, c. 47, s. 12.

Filing and  
entry of  
report of  
inspection

**96.**—(1) A report of each inspection, except when made merely for the purpose of a dispute, appeal or other proceeding, shall be made in writing by the inspecting officer and shall be filed in the office of the recorder, who shall forthwith enter upon the record of the claim a note stating the effect of the report and the date of the entry.

Cancelling  
claim upon  
report

(2) If the recorder is of opinion that upon the report the claim should be cancelled, he shall mark the record of the claim "Cancelled" and affix his signature or initials and shall by registered letter mailed not later than the next day notify the holder of the claim and the disputant and other interested parties, if any, of the receipt and effect of the report, and where the claim is cancelled in consequence of the report, the notice shall so state. R.S.O. 1950, c. 236, s. 93 (1, 2).

Appeal from  
cancellation

(3) An appeal from the cancellation of the claim may be taken to the Commissioner by the holder of the claim or by the disputant or other interested party, within the time and

in the manner provided by section 140. R.S.O. 1950, c. 236, s. 93 (3); 1956, c. 47, s. 5; 1959, c. 60, s. 9.

(4) Upon the cancellation of a claim under this section, the recorder shall forthwith post up in his office a notice of the cancellation, and the land or mining rights comprised in such claim are thereupon, unless withdrawn from prospecting and staking out, again open to prospecting and staking out, but such staking out is subject to the result of an appeal by a licensee whose claim has been cancelled. R.S.O. 1950, c. 236, s. 93 (4). <sup>Effect of cancellation</sup>

**97.** The holder of a mining claim or the disputant or other person interested is entitled on payment of the prescribed fee to receive from the recorder a certified copy of any report of inspection of the claim filed with him. R.S.O. 1950, c. 236, s. 94. <sup>Right of holder to copy of report</sup>

#### SURFACE RIGHTS COMPENSATION

**98.—**(1) Where the surface rights of land have been granted, sold, leased or located with reservation of mines, minerals or mining rights to the Crown, or where land is occupied by a person who has made improvements thereon that in the opinion of the Minister entitle him to compensation, a licensee who prospects for mineral or stakes out a mining claim or an area of land for a boring permit or carries on mining operations upon such land, shall compensate the owner, lessee, locatee or occupant for all injury or damage that is or may be caused to the surface rights by such prospecting, staking out or operations, and in default of agreement the amount and the manner and time of payment of compensation shall be determined by the Commissioner upon application to him after notice to the persons interested, and, subject, where the amount awarded exceeds \$1,000, to appeal to the Court of Appeal, his order is final and may be enforced as provided in section 137. R.S.O. 1950, c. 236, s. 95 (1); 1956, c. 47, s. 6. <sup>Right of owner of surface rights to compensation</sup>

(2) The Commissioner may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by such licensee or any person claiming under him. R.S.O. 1950, c. 236, s. 95 (2); 1956, c. 47, s. 12. <sup>Prohibiting work pending settlement</sup>

(3) Where an order is made prohibiting the prospecting, staking out or working of a mining claim under subsection 2, no other licensee has the right to prospect or stake out a mining claim to the prejudice of the prohibited licensee while the proceeding is pending. R.S.O. 1950, c. 236, s. 95 (3). <sup>Other licensees not to prospect, etc., pending proceedings</sup>

Lien for  
compensa-  
tion

(4) The compensation is a special lien upon any mining claim or other right or interest acquired by the licensee or any person claiming under him in the land so prospected, staked out or worked, and no further prospecting, staking out or working, except by leave of the Commissioner, shall be done by the licensee or any person claiming under him after the time fixed for the payment or securing of the compensation unless the compensation has been paid or secured as directed. R.S.O. 1950, c. 236, s. 95 (4); 1956, c. 47, s. 12.

Reduction in  
area of claim

**99.**—(1) The Commissioner or the recorder may reduce the area of a mining claim staked out where the surface rights have been granted, sold, leased or located, if in his opinion an area less than the prescribed area is sufficient for working the mines and minerals therein.

Exclusion  
of part of  
surface rights

(2) The Commissioner or the recorder may exclude from any mining claim such part of the surface rights as may be necessary for the occupation and utilization of buildings or improvements erected or made thereon prior to the time the claim was staked out. R.S.O. 1950, c. 236, s. 96; 1956, c. 47, s. 12.

#### ISSUE OF PATENT OR LEASE FOR MINING CLAIM

Right to  
patent of  
claim

**100.**—(1) Upon compliance with this Act and upon payment of the purchase price as provided in section 101, or rental fixed by section 47 or by regulation of the Lieutenant Governor in Council, the holder of a mining claim is entitled to a patent or lease, as the case may be, for the claim.

Application  
for patent

(2) The application and payment for a patent or lease shall be made to the recorder within one year from the date upon which all work on a mining claim is required to be performed and the application shall be accompanied by a certificate of record as provided in section 65 and a certificate of the complete performance of working conditions as provided in subsection 4 of section 83. R.S.O. 1950, c. 236, s. 97.

Holder may  
apply for  
lease

(3) Where the holder of a mining claim is entitled to receive a patent of the claim under subsection 1, he may apply instead for a lease of the claim for a term of ten years at a rental payable in advance of \$1 an acre for the first year and 25 cents an acre for each subsequent year, the minimum rental for a claim being \$10 for the first year and \$5 for each subsequent year.

Lease  
renewable

(4) Every lease under subsection 3 is renewable in perpetuity for terms of ten years and every renewal shall be dated from the day following the expiration of the lease or the last renewal thereof if application therefor is made within ninety



days of the expiration of the lease or the last renewal thereof or such further period as the Minister, in the circumstances of the case, deems proper.

(5) Subsections 3, 4, 5 and 6 of section 47 apply *mutatis mutandis* to leases and renewals thereof under subsections <sup>Application of s. 47, subss. 3-6</sup> 3 and 4. 1955, c. 45, s. 19.

**101.**—(1) The price per acre of Crown lands patented as mining claims is \$6 in surveyed territory and \$5 in unsurveyed territory, and the price per acre for mining rights so patented is one-half the price payable for Crown lands. 1955, c. 45, s. 20 (1). <sup>Price to be paid for patent</sup>

(2) Where the area of the mining claim exceeds by more than five acres the prescribed area as defined in section 51 and the claim is not reduced in size under section 111, the price or rental per acre of the area in excess of the area so prescribed is twice the price or rental provided for in this Act, and there shall be performed at least five days work per acre for the excess area, but, where there is a group of contiguous claims held by the same licensee and their average area does not exceed forty-five acres, the Minister may direct that this subsection does not apply. <sup>Where area exceeds prescribed area</sup>

(3) Where additional work is required under subsection 2, the Minister may prescribe the time within which such work is to be performed and recorded, and application and payment for patent or lease shall be made within the time so prescribed. 1952, c. 59, s. 2. <sup>Where additional work required</sup>

(4) Where it is deemed necessary by the Minister under section 110 that a mining claim in surveyed territory be surveyed, the purchase price of the claim shall be at the rate of \$5 per acre. R.S.O. 1950, c. 236, s. 98 (3); 1955, c. 45, s. 20 (2). <sup>Purchase price</sup>

**102.**—(1) Every patent or lease issued under this Act shall contain a reservation for road purposes of 10 per cent of the surface rights of the land granted or leased, as the case may be, and the Crown or its officers or agents may lay out and construct roads where deemed proper on the lands so granted or leased. <sup>Reservation for roads</sup>

(2) Subsection 1 does not apply to patents or leases of the mining rights only. 1955, c. 45, s. 21. <sup>Subs. 1 not to apply to mining rights</sup>

**103.** Every patent of Crown lands or mining rights, by which it is intended to vest in the patentee the mines and minerals therein or a part thereof or any rights in connection <sup>Form of patent</sup>

therewith, shall state that it is issued under this Act or the former Act under which it is issued. R.S.O. 1950, c. 236, s. 100.

Disposal  
of surface  
rights

**104.**—(1) In a patent or lease of a mining claim, the Minister,

(a) shall reserve all surface rights excluded by or withdrawn under this Act or the regulations, or that have otherwise been alienated by the Crown; and

(b) shall reserve all other surface rights he considers necessary for any purposes other than the mineral industry and not essential for the efficient exploration and development of the mines, minerals and mining rights.

Idem

R.S.O. 1960,  
c. 324

(2) Any surface rights reserved under this section may be dealt with under Part VII or under *The Public Lands Act* or the regulations made thereunder. 1957, c. 71, s. 9 (1).

Patents  
issued under  
this Act  
to vest  
minerals

**105.** Every patent of Crown lands that purports to be issued under this Act, unless it is otherwise expressly stated, vests in the patentee of the estate thereby granted all title of the Crown in such lands and all mines and minerals therein. R.S.O. 1950, c. 236, s. 101.

Condition  
of patent  
ores to be  
treated in  
Canada

**106.**—(1) All lands, claims or mining rights leased, patented or otherwise disposed of under this Act or a predecessor of this Act on or after the 12th day of April, 1917, are subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined in Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the Lieutenant Governor in Council may declare the lease, patent or other form of title of such lands, claims or mining rights to be void, and the order in council so declaring shall be registered in the office of the local master of titles or registry office, as the case may be, whereupon such lands, claims or mining rights revert to and become vested in Her Majesty, Her heirs and successors, freed and discharged of any interest or claim of any other person.

Exemptions

(2) The Lieutenant Governor in Council may exempt any lands, claims or mining rights from the operation of this section for such period of time as seems proper.

Section does  
not apply in  
certain cases

(3) This section does not apply to iron ore or to the lands, claims or mining rights from which iron ore is mined or taken. R.S.O. 1950, c. 236, s. 102.

**107.**—(1) Every patent or lease of Crown lands issued under this Act shall contain a reservation to the Crown of all timber and trees standing, being or hereafter found growing upon the lands thereby granted or leased, and of the right to enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon, and to make necessary roads for such purposes. Reservation of trees and right of entry

(2) The rights reserved in subsection 1 may be exercised by any person holding a licence or permit from the Crown when authorized to do so by the Minister of Lands and Forests. Exercise of rights reserved

(3) All timber and trees on Crown lands that have been staked out and recorded under this Act remain the property of the Crown, and the Crown may enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon and to make necessary roads for such purpose. Ownership of trees remains in Crown

(4) Notwithstanding subsections 1 and 3 and subject to subsections 5 and 6, the recorded holder of a mining claim staked on Crown lands or the owner or lessee of lands acquired under this Act may cut such trees on the lands so staked or acquired as may be necessary for building, fencing or fuel purposes or for any other purpose necessary for the development or working of the minerals thereon. Conditions under which holder, owner or lessee may cut trees

(5) Where a licence or permit from the Crown to cut timber on the land has not been granted, the recorded holder, owner or lessee may, on application to the Minister of Lands and Forests, be granted permission to cut and use the trees for the purposes mentioned in subsection 4 either without payment or on such terms and conditions as the Minister of Lands and Forests imposes. Idem

(6) Where a licence or permit from the Crown to cut timber on the lands has been granted, the recorded holder, owner or lessee shall compensate the timber licensee or permittee for the trees cut or used by him. Idem

(7) Where a dispute arises between the recorded holder, owner or lessee and the timber licensee or permittee as to the value or quantity of the trees cut or used under subsection 6, the Minister of Lands and Forests shall determine the dispute and his decision is final. Determination of disputes

(8) This section does not confer upon the recorded holder, owner or lessee of the mining rights any right to cut trees upon the lands on which he has staked or acquired only the mining rights. 1955, c. 45, s. 22. Holder, etc., of mining rights not to cut trees

**108.** Where letters patent, leases, licences or other instruments of title have been issued to or in the name of the wrong Cancellation of erroneous patents



R.S.O. 1960,  
cc. 204, 348

person through mistake, or contain any clerical error or misnomer, or a wrong description of the land intended to be granted, the Deputy Minister, if there is no adverse claim and whether or not the land has been registered under *The Land Titles Act* or *The Registry Act*, may direct the defective instrument to be cancelled and a correct one to be issued in its stead and the corrected instrument shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of the cancelled instrument. R.S.O. 1950, c. 236, s. 104.

#### SURVEY OF CLAIM BEFORE ISSUE OF PATENT

When survey  
required in  
unsurveyed  
territory

**109.**—(1) Before a patent of a mining claim in unsurveyed territory is applied for, the claim shall be surveyed by an Ontario land surveyor at the expense of the applicant. R.S.O. 1950, c. 236, s. 105 (1); 1952, c. 59, s. 3.

Regulations  
for surveying

(2) The Lieutenant Governor in Council may make regulations prescribing the method and procedure to be followed in surveying mining claims. R.S.O. 1950, c. 236, s. 105 (2).

Minister  
may direct  
survey of  
claim in  
surveyed  
territory

**110.** Where upon an application for a patent of a mining claim in surveyed territory the Minister is of opinion that a survey is necessary, he may direct that a survey thereof be made at the expense of the applicant, and the survey, unless otherwise ordered, shall comply with the same requirements as a survey of a mining claim in unsurveyed territory. R.S.O. 1950, c. 236, s. 106.

Reduction  
of area of  
claim

**111.**—(1) If it is found upon a survey required or authorized by this Act that the area of a mining claim exceeds the prescribed acreage, the Minister may reduce the area to the prescribed acreage or thereabouts in any way he sees fit.

Lands  
accidentally  
omitted,  
disposition  
of gores and  
fractions

(2) Where two or more mining claims in unsurveyed territory are contiguous and constitute a group recorded in the name of one licensee and it was the manifest intention of the applicant or applicants, as shown by the sketch or sketches accompanying his or their application or applications for the same, to include as part of such mining claims all lands and lands under water within the limits of such group, and a survey shows that certain of the lands or lands under water are not so included, such lands or lands under water shall nevertheless be deemed to be part and parcel of the claim or claims in which it was the manifest intention that they should be included, and where two or more mining claims are contiguous and are recorded in the name or names of more than one licensee, any fraction or gore shown or created by a survey is not open for staking out until the Minister so directs, and

the Minister on the report of the Surveyor General, may award such fraction or gore, or part thereof, to the recorded holder or holders of either or both of the contiguous claims, or may sell, lease, or otherwise dispose of the same as he sees fit without requiring such fraction or gore to be staked out as a mining claim. R.S.O. 1950, c. 236, s. 107.

### PART III

#### PLACER MINING

**112.** A licensee who makes a discovery of a natural stratum, bed or deposit of sand, earth, clay, gravel or cement carrying gold, platinum or precious stones that is probably of such size and character as to be likely to be workable at a profit may stake out and record a mining claim to be called a Placer Mining Claim thereon, and the provisions of this Act as to the staking out and recording of a mining claim upon the discovery of valuable mineral in place thereon, as far as practicable, apply to the staking out of a placer mining claim as if the words "a natural stratum, bed or deposit of sand, earth, clay, gravel or cement carrying gold, platinum or precious stones that is probably of such size and character as to be likely to be workable at a profit" were used instead of "valuable mineral in place", and the other provisions of this Act as to mining claims, as far as practicable, apply to a placer mining claim, and "mining claim" wherever used in this Act shall, unless repugnant to the context, be read as including placer mining claim. R.S.O. 1950, c. 236, s. 108.

### PART IV

#### PETROLEUM, GAS, COAL & SALT

**113.—(1)** A licensee may obtain from the Minister a boring permit in the prescribed form granting him the exclusive right for a period of one year to prospect for petroleum, natural gas, coal or salt upon an area of land open for prospecting and staking out in those parts of Ontario lying north and west of the River Mattawa, Lake Nipissing, and the French River,

(a) by staking out such area by planting or erecting a post at each corner thereof in the manner and with the numbering provided by section 55, and writing or placing upon each post,

(i) the words "Boring Permit Applied For",

(ii) his name and the letter and number of his licence,

(iii) the date of the staking out, and

(iv) a statement of the area to be included in the application;

- (b) by furnishing the recorder with an application in duplicate verified by affidavit in the prescribed form not later than thirty-one days from the date of staking;
- (c) by forwarding to the Minister not more than ninety days thereafter a plan or diagram showing as nearly as possible the situation of the lands, and a written description of the lands, including, if the area is in surveyed territory, the number of the lots and concessions or sections or quarter sections or other subdivisions, together with a fee of \$100; and
- (d) by proving to the satisfaction of the Minister that he has paid or secured to the owner of the surface rights, if any, the compensation agreed upon or determined as provided in section 98 for any injury or damage that is or may be caused to the surface rights, or, in default of agreement, that he has paid or secured such compensation, as determined in the manner provided by section 98. R.S.O. 1950, c. 236, s. 109 (1); 1958, c. 59, s. 6.

Posting applications

(2) One duplicate of the application shall be forthwith posted up by the recorder in his office and the other forwarded by him to the Minister.

Form of area to be included in permit

(3) The area of land included in a boring permit, if in unsurveyed territory, shall be rectangular in form and shall not exceed 640 acres in extent, the boundary lines thereof being due north and south and due east and west astronomically, and if in surveyed territory, need not be rectangular in form but may consist of any number of contiguous lots, quarter sections or subdivisions of a section containing in all not more than 640 acres.

Working conditions

(4) The holder of a boring permit shall enter upon the area described therein within two months from the granting of the permit, and during the term of the permit shall expend thereon in actual boring, sinking, driving or otherwise searching for petroleum, natural gas, coal or salt a sum amounting to not less than \$2 per acre.

Renewal of permit

(5) Upon proof being furnished to the Minister that such expenditure has been made and that all other terms and conditions of the permit have been complied with, the Minister, at the expiration of the boring permit, may grant one renewal of the permit for one year upon payment of a fee of \$100, and the renewal is subject to the like conditions as to expenditure and otherwise as the original permit.



(6) The holder of a boring permit may, with the consent of the Minister endorsed thereon, transfer, in the prescribed form, all his rights in the permit or the land included therein, and, upon the consent being given, the licensee to whom the permit is transferred is entitled to the unexpired term of the permit, with any right of renewal thereof. R.S.O. 1950, c. 236, s. 109 (2-6). <sup>Transfer of permit</sup>

(7) A licensee shall not in any one licence year stake out more than three areas or apply for or obtain more than three boring permits. 1952, c. 59, s. 4. <sup>Limitation</sup>

**114.**—(1) Upon the holder of a boring permit proving to the satisfaction of the Minister that he has discovered petroleum, natural gas, coal or salt or any one or more of such substances in commercial quantities upon the land included therein, the Minister may direct the issue to the holder of the permit of a lease of the land or a part of it for a term of ten years at an annual rental of \$1 per acre, payable in advance and subject to the expenditure of not less than \$2 per acre per annum, in obtaining petroleum, natural gas, coal or salt, or any one or more of such substances therefrom or in actual *bona fide* operations or works undertaken or made for the purpose of obtaining the same, and the lessee has the right of renewal of the lease at the expiration of the first term of ten years for a further term of ten years at the same rental, and at the expiration of the second term for a term of twenty years at such renewal rental as is then agreed upon or provided by statute or regulation. <sup>Lease may issue on discovery</sup>

(2) Every such lease shall contain such other conditions, stipulations and provisos as the Lieutenant Governor in Council prescribes, and is forfeit and void if the rental payable thereunder is not paid when due or upon failure to expend the money required by subsection 1 to be laid out or upon failure to comply with any of the terms and conditions of the lease, but relief from forfeiture for failure to pay rent when due may be had by the payment of all arrears within ninety days after the rent became payable. <sup>Regulations as to leases</sup>

(3) The right conferred by such a lease upon the lessee is to enter upon the land described, and to dig, bore, sink, drive or otherwise search for and obtain, raise and remove petroleum, natural gas, coal and salt, or any one or more of such substances, and all other valuable minerals are reserved to the Crown, and a holder of a miner's licence may at all times go upon the land and prospect the land and stake out a mining claim thereon, but subject to compensating the lessee for any injury or damage to his interest in the land at the time and in the manner provided in section 98, and may obtain a patent <sup>Rights of lessee</sup>

therefor, but the patent shall reserve the petroleum, natural gas, coal and salt, in, on or under the land.

Survey  
required in  
unsurveyed  
territory

(4) No such lease shall issue for land in unsurveyed territory until a plan of survey made by an Ontario land surveyor is filed in the Department, and such survey shall be in conformity with this Act and to the satisfaction of the Minister.

Timber to  
be reserved

(5) The holder of a boring permit or of a lease for petroleum, natural gas, coal or salt is not entitled to the timber upon the land included in the permit or lease but, if the land is not covered by timber licence and has not been located, sold or patented under *The Public Lands Act*, may, with the permission of the Minister of Lands and Forests and upon payment of such rates as are fixed, cut and use such timber as is necessary for boring and working the land. R.S.O. 1950, c. 236, s. 110, *revised*.

R.S.O. 1960,  
c. 324

Boring  
permitted  
north of  
trans-  
continental  
railway

**115.** Notwithstanding anything in sections 113 and 114, the Minister, with the approval of the Lieutenant Governor in Council, may make such regulations as he thinks fit respecting the issue of boring permits authorizing the holders thereof to prospect for petroleum, natural gas, coal or salt in that part of Ontario lying north of the transcontinental railway and for the issue of leases upon such terms as the Minister sees fit. R.S.O. 1950, c. 236, s. 111.

## PART V

### DREDGING LEASES

Regulations

**116.**—(1) The Lieutenant Governor in Council may make regulations respecting the issue of leases authorizing the holders thereof to dredge or work in any river, stream or lake or on lands not covered by water for the purpose of recovering therefrom alluvial gold, platinum, precious stones or other valuable mineral not in place.

Provisions to  
be included  
in dredging  
leases

(2) Every such lease shall provide for the payment in advance of an annual rental of not less than 25 cents per acre and shall not be for a greater term than ten years, renewable at the expiration thereof for a further term of not more than ten years, and every such lease or renewal thereof shall contain such conditions and provisions as the Lieutenant Governor in Council sees fit. R.S.O. 1950, c. 236, s. 112.

## PART VI

### MINING PARTNERSHIPS

Rights,  
liabilities,  
etc., of  
partnership  
remain  
in force

**117.** All rights, liabilities and conditions pertaining to mining partnerships formed before the 2nd day of April, 1931,

under a predecessor of this Act, remain in full force and virtue until the expiry thereof as provided in the certificate of mining partnership. R.S.O. 1950, c. 236, s. 113.

## PART VII

### QUARRY PERMITS

**118.**—(1) No person shall take or remove or cause to be taken or removed any stone or rock quarried for any industrial or commercial purpose, limestone, marble, granite, quartzite, feldspar, fluorspar, gypsum, diatomaceous earth, clay, marl, peat, sand or gravel that is the property of the Crown unless he is the holder of a quarry permit. 1957, c. 71, s. 10.

(2) Application for a quarry permit may be made in the prescribed form to the Minister or the Deputy Minister, but, where the permit applied for is to authorize the taking or removal of less than 1,000 cubic yards or 1,000 tons of material, the application may be made to a recorder.

(3) The Minister, the Deputy Minister or a recorder may issue quarry permits upon application therefor and upon payment of the prescribed fees.

(4) Notwithstanding subsection 3, a quarry permit may be issued free of charge to any municipality, or to any resident of Ontario if the material to be taken or removed is for his own use and not for sale or for use for any commercial or industrial purpose, but, where more than 100 cubic yards or 100 tons of material is to be taken or removed, the permit shall not be issued free of charge without the approval of the Minister.

(5) Every quarry permit expires on the 31st day of March next following its date of issue unless it is otherwise stated in the permit.

(6) No quarry permit shall be transferred without the written consent of the Minister or the Deputy Minister.

(7) The Minister may suspend or revoke a quarry permit at any time.

(8) The Minister may require an applicant for a quarry permit to file a plan of the area in which he desires to operate, indicating the extent and nature of the deposit and the location of any buildings or improvements adjacent to the deposit. 1951, c. 51, s. 2, *part*.

**119.**—(1) The holder of a quarry permit, other than the holder of a quarry permit issued free of charge, shall pay the Crown for the material taken or removed such amount as the Minister determines.



- How determined** (2) In determining the amount to be paid under subsection 1, the Minister shall have regard to the location, type and accessibility of the deposit and the amount of the material taken or removed.
- Security** (3) The Minister may require the holder of a quarry permit to give security by bond or otherwise for the payment of such amounts. 1951, c. 51, s. 2, *part*.
- Records** **120.** The holder of a quarry permit shall keep a detailed record of his operations and shall retain copies of all documents relating to sales and shipments, and all accounts, records and documents relating to his operations shall be kept available for inspection by any person authorized by the Minister to inspect such accounts, records and documents. 1951, c. 51, s. 2, *part*.
- Power to inspect** **121.** Any person authorized by the Minister may enter any premises covered by a quarry permit and shall have access to all accounts, records and documents kept in relation to the operation of the quarry. 1951, c. 51, s. 2, *part*.
- Returns** **122.** The holder of a quarry permit shall make a return on the prescribed form on or before the tenth day of each month showing the quantity and destination of the material taken or removed during the next preceding month. 1951, c. 51, s. 2, *part*.
- Licensee, right of** **123.** A quarry permit does not affect the right of a licensee to stake out a mining claim on the lands covered by the permit and any question of property damage shall be determined in the manner provided in section 98. 1951, c. 51, s. 2, *part*.
- Offence** **124.** Every person who contravenes any of the provisions of this Part is guilty of an offence and is liable to a fine of not less than \$10 and not more than \$500. 1951, c. 51, s. 2, *part*.

## PART VIII

### MINING COMMISSIONER

- Appointment** **125.—**(1) The Lieutenant Governor in Council may appoint an officer known as the Mining Commissioner.
- Seal** (2) The Commissioner shall have a seal of office with which all process shall be sealed or stamped. 1956, c. 47, s. 7, *part*.
- Acting Commissioner** (3) Where the Commissioner is unable to perform his duties because of illness or for any other reason, the Minister may in writing appoint a person to act in his stead, but the author-

ity of such person is restricted to the making of orders under section 92 and he has only such powers of the Commissioner as are necessary for the purpose. 1959, c. 60, s. 10.

**126.** Except as provided by section 642, no action lies and no other proceeding shall be taken in any court as to any matter or thing concerning any right, privilege or interest conferred by or under the authority of this Act, but, except as in this Act otherwise provided, every claim, question and dispute in respect of such matter or thing shall be determined by the Commissioner, and in the exercise of the power conferred by this section the Commissioner may make such order or give such directions as he deems necessary to make effectual and enforce compliance with his decision. 1956, c. 47, s. 7, *part*. Jurisdiction

**127.** Every notice and every document in any matter, application or appeal coming before the Commissioner shall be styled "In the matter of *The Mining Act* before the Mining Commissioner". 1956, c. 47, s. 7, *part*. Style of proceedings

**128.** The Commissioner has in respect of matters that may be dealt with by him all the powers of summoning and enforcing the attendance of witnesses and compelling them to give evidence and produce documents and things that may be conferred upon a commissioner under *The Public Inquiries Act*. 1956, c. 47, s. 7, *part*. Attendance of witnesses  
R.S.O. 1960,  
c. 323

**129.** The Commissioner has no power or authority to declare forfeited and void or to cancel or annul any Crown patent issued for lands, mining lands, mining claims or mining rights, but every action and every proceeding to declare forfeited or void or to cancel or annul any such Crown patent may be brought or taken in the Supreme Court. 1956, c. 47, s. 7, *part*. Crown patents

**130.** A party to a proceeding under this Act brought before the Commissioner and involving any right, privilege or interest or in connection with any patented lands, mining lands, mining claims or mining rights, may, at any stage of the proceeding, apply to the Supreme Court for an order transferring the proceeding to the Supreme Court. 1956, c. 47, s. 7, *part*. Transfer of proceeding to Supreme Court

**131.** Where in the opinion of the court in which an action is brought the proceeding may be more conveniently dealt with or disposed of by the Commissioner, the court may, upon the application of a party or otherwise and at any stage of the proceeding, refer the action or any question therein to the Commissioner as an official referee on such Reference from court to Commissioner

terms as to the court seems just and the Commissioner shall thereafter give directions for the continuance of the proceeding before him, and, subject to the order of reference, all costs are in his discretion. 1956, c. 47, s. 7, *part*.

Transfer  
from court  
to Commis-  
sioner

**132.** Where a proceeding that should have been taken before the Commissioner is brought in a court, the court may, upon the application of a party or otherwise and at any stage of the proceeding, transfer it to the Commissioner. 1956, c. 47, s. 7, *part*.

Rules

**133.**—(1) The Lieutenant Governor in Council may make rules,

- (a) prescribing the practice and procedure before the Commissioner;
- (b) respecting the sittings of the Commissioner and the places at which the sittings shall be held;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part.

Idem

(2) The rules in force in the Mining Court of Ontario on the 1st day of June, 1956, continue in force and apply *mutatis mutandis* to proceedings before the Commissioner until revoked or amended. 1956, c. 47, s. 7, *part*.

Recorder  
may de-  
termine  
disputes

**134.**—(1) Subject to the right of appeal provided in section 138, a recorder has power to hear and determine disputes between licensees as to unpatented mining claims situate in his mining division.

When  
recorder  
to decide  
matter in  
first instance

(2) Any question arising before the issue of a certificate of record of a mining claim as to whether the provisions of this Act regarding a mining claim have been complied with, unless the Commissioner otherwise orders or unless the recorder with the consent of the Commissioner transfers the question to the Commissioner for his decision, shall in the first instance be decided by the recorder.

Note and  
notice of  
recorder's  
decision

(3) The recorder shall enter forthwith in the books of his office a full note of every decision made by him, and shall notify the persons affected thereby of the decision by registered letter mailed not later than the next day after the entry of the note.

Certificate  
of decision

(4) Every person affected by the decision is entitled upon payment of the prescribed fee to receive from the recorder a certificate thereof which shall contain the date of the entry of the decision in the books of the recorder.



(5) The decision of the recorder is final and binding unless <sup>Finality of decision</sup> appealed from as provided in section 138. 1956, c. 47, s. 7, *part.*

**135.**—(1) The recorder may give directions for the conduct <sup>Directions as to conduct of proceedings</sup> and carrying on of proceedings before him, and in so doing he shall adopt the cheapest and simplest methods of determining the questions raised before him.

(2) Where no such directions are given, the provisions relating to procedure before the Commissioner apply wherever <sup>Where no direction</sup> applicable. 1956, c. 47, s. 7, *part.*

**136.** The recorder shall not award costs, but may in his <sup>Costs</sup> discretion allow fees and conduct money to witnesses and may direct by whom they shall be paid. 1956, c. 47, s. 7, *part.*

**137.** A duplicate of any order made by the Commissioner or by a recorder may be filed in the office of the Registrar of the Supreme Court or in the office of any local registrar of the Supreme Court or in the office of the clerk of the county or district court of the county or district in which the land lies, and upon being so filed it becomes an order of the court in which it is filed and is enforceable as an order of such court, but the court or a judge thereof may stay proceedings thereon if an appeal from the order is brought. 1956, c. 47, s. 7, *part.* <sup>Conversion of Commissioner's or recorder's orders into court orders</sup>

**138.**—(1) A person affected by a decision of or by any act <sup>Appeal from recorder to Commissioner</sup> or thing, whether ministerial or judicial, done or refused or neglected to be done by a recorder may appeal to the Commissioner who shall decide the matter and make such order in the premises as he deems just.

(2) Upon an appeal from a decision of a recorder, the Commissioner may require or admit new or additional evidence <sup>Powers on appeal</sup> or may re-try the matter.

(3) The appeal shall be by notice in writing in the prescribed form, filed in the office of the recorder and served upon all parties adversely interested within fifteen days from the entry of the decision on the books of the recorder or within such further period not exceeding fifteen days as the Commissioner allows, but if the notice of appeal has been filed with the recorder within such time and the Commissioner is satisfied that it is a proper case for appeal and that after reasonable effort any of the parties entitled to notice could not be served within such time, the Commissioner may extend the time for appealing and make such order for substitutional or other service as is deemed just, or if a person affected has not been notified as provided in sections 96 and 134, and appears to have suffered substantial injustice and has not <sup>Method of appealing</sup>

been guilty of undue delay, the Commissioner may allow such person to appeal.

Service of  
notice of  
appeal

(4) The notice of appeal shall contain or have endorsed upon it an address in Ontario at which the appellant may be served with any notice or document relating to the appeal, and any such notice or document is sufficiently served upon the appellant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered letter addressed to the appellant at such address.

Idem

(5) If no address for service is given as provided in subsection 4, any such notice or document may be served upon the appellant by posting it up in the recorder's office. 1956, c. 47, s. 7, *part*.

Appointment  
for hearing  
of appeal

**139.** An appointment shall be obtained from the Commissioner for the hearing of an appeal, a dispute mentioned in section 64, or any claim, question, dispute or other matter within his jurisdiction. 1956, c. 47, s. 7, *part*.

Reasonable  
grounds to  
be shown

**140.**—(1) In any matter or proceeding, other than an appeal, the Commissioner may, if a certificate of record has been issued, require the applicant to satisfy him that there is reasonable ground for the application or may in any such case, or in any case where leave to take the proceeding is necessary, give the appointment or leave only upon such terms as to security for costs or otherwise as he deems just.

Application  
for appoint-  
ment

(2) The appointment may be obtained upon a verbal or written application.

Copy of  
appoint-  
ment to  
be served

(3) A copy of the appointment shall be served upon all parties concerned and, except in the case of an appeal or a dispute under section 64, a notice in the prescribed form stating shortly the nature and particulars of the right, question or dispute shall be served also. 1956, c. 47, s. 7, *part*.

Directions

**141.**—(1) The Commissioner may give directions for having any matter or proceeding heard and decided without unnecessary formality, may order the filing or serving of statements, particulars, objections or answers, the production of documents and things, and the making of amendments, may give such other directions respecting the procedure and hearing as he deems proper, may make any appointment, notice or other proceeding returnable forthwith or at such time as he deems proper, and may order or allow such substituted or other service as he deems proper.

Place of  
hearing

(2) In appointing the place of hearing, the Commissioner shall select the place that he deems most convenient for the

parties in the county or district or one of the counties or districts in which the lands or mining rights affected are situate, unless it appears to him desirable that the hearing should be in some other county or district.

(3) The hearing shall be proceeded with as promptly as possible having regard to the interests of the parties. Prompt hearing

(4) The Commissioner may take or order the evidence of any witness to be taken at any place in or out of Ontario. Taking evidence

(5) The Commissioner may hear and dispose of any application not involving the final determination of the matter or proceeding at any place he deems convenient, and his decision upon any such application is final and is not subject to appeal. Inter-locutory matters  
1956, c. 47, s. 7, *part.*

**142.** The Commissioner may obtain the assistance of engineers, surveyors or other scientific persons who may under his order view and examine the property in question, and in giving his decision he may give such weight to their opinion or report as he deems proper. Expert assistance  
1956, c. 47, s. 7, *part.*

**143.—**(1) The Commissioner, in addition to hearing the evidence adduced by the parties, may require and receive such other evidence as he deems proper, and may view and examine the property in question and give his decision upon such evidence or view and examination, or may appoint a person to make an inspection of the property, and may receive as evidence and act upon the report of the person so appointed. Commissioner may call for evidence and view property

(2) Where the Commissioner proceeds partly on a view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to enable a judgment to be formed of the weight that should be given thereto. Statement of view or special knowledge

(3) Where the parties consent in writing, the Commissioner may proceed wholly upon a view, and in such case his decision is final and is not subject to appeal. View only  
1956, c. 47, s. 7, *part.*

**144.** The Commissioner shall give his decision upon the real merits and substantial justice of the case. Decision on the merits  
1956, c. 47, s. 7, *part.*

**145.** Where the Commissioner deems the matter or proceeding vexatious or where it is brought by a person residing out of Ontario, he may order that such security for costs as he deems proper be given and that in default of such security being given within the time limited or in default of speedy prosecution the matter or proceeding be dismissed. Security for costs  
1956, c. 47, s. 7, *part.*



Use of court  
rooms, etc.

**146.** Where the hearing is to be held at a place where a court house is situate, the Commissioner has the right to use the court room, and where the hearing is to take place in a municipality in which there is a hall belonging to the municipality, but no court room, he has the right to use the hall. 1956, c. 47, s. 7, *part*.

Sheriffs, etc.,  
to assist

**147.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Commissioner in the exercise of the powers conferred on him by this Act whenever required so to do and shall upon the certificate of the Commissioner be paid by the treasurer of the county or district the same fees as for similar services in carrying out the orders of a judge of the Supreme Court. 1956, c. 47, s. 7, *part*.

Transcripts  
of evidence

**148.** The evidence taken before the Commissioner need not be filed or written out at length unless required by the Commissioner or by a party to the proceeding, and if so required, copies shall be furnished upon the same terms as in cases in the Supreme Court. 1956, c. 47, s. 7, *part*.

Costs

**149.** The Commissioner may in his discretion award costs to any party, and may direct that such costs be taxed by the clerk of the county or district court or by a local taxing officer or by one of the taxing officers at Toronto, or may order that a lump sum be paid in lieu of taxed costs. 1956, c. 47, s. 7, *part*.

Scale of  
costs

**150.**—(1) The costs and disbursements payable upon proceedings before the Commissioner, as to any matter in which the amount or value of the property in question does not in the opinion of the Commissioner exceed \$400, shall be according to the tariff of the county court, and as to any matter in which the amount or value of the property in question in his opinion exceeds \$400, shall be according to the tariff of the Supreme Court.

Idem

(2) The Commissioner shall in his order or award direct the tariff upon which the costs and disbursements shall be taxed.

Counsel fees

(3) The Commissioner has the same powers as a judge of a county court or a taxing officer of the Supreme Court with respect to counsel fees. 1956, c. 47, s. 7, *part*.

Witness fees

**151.** The fee and conduct money to be paid to a witness before the Commissioner or recorder shall be according to the county court scale. 1956, c. 47, s. 7, *part*.

Form of  
decision

**152.**—(1) Except where inapplicable, the decision of the Commissioner shall be in the form of an order or judgment,

but need not show upon its face that any proceeding or notice was had or given or that any circumstance existed necessary to give jurisdiction to make the order or judgment.

(2) The order or judgment of the Commissioner, with the evidence, exhibits, the statement, if any, of view or of special knowledge or skill and the reasons for his decision, if any are given, shall be filed in the Department or in the office of the recorder as the Commissioner directs, and the officer or person in charge of such office shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to parties not represented by a solicitor. <sup>Documents to be filed</sup>

(3) Where the order or judgment is not filed with the recorder of the division in which the property affected is situate, the Commissioner shall transmit a duplicate thereof to such recorder. 1956, c. 47, s. 7, *part.* <sup>Idem</sup>

**153.**—(1) The Commissioner shall make in the books of his office a full note of every decision given by him. <sup>Entry of decision</sup>

(2) Where a decision of the Commissioner finally disposes of the matter in question so far as he is concerned, he shall give notice of the purport of his decision to the parties by registered mail addressed to them at their addresses as entered in his books. 1956, c. 47, s. 7, *part.* <sup>Notice of final decision</sup>

**154.** Any party to a proceeding is entitled on payment of the prescribed fee to a certified copy of any order or judgment, and the copy shall show the date of the entry of the order or judgment in the books of the Commissioner. 1956, c. 47, s. 7, *part.* <sup>Certified copies</sup>

**155.** Where not otherwise provided, an appeal lies to the Court of Appeal from any decision of the Commissioner, including an order dismissing a matter or proceeding under section 145. 1956, c. 47, s. 7, *part.* <sup>Appeal to Court of Appeal</sup>

**156.**—(1) Except in the case provided for by section 131 and in the case of a reference under *The Arbitrations Act*, the order of the Commissioner is final and conclusive unless where an appeal lies it is appealed from within fifteen days after the filing thereof or within such further period not exceeding fifteen days as the Commissioner or a judge of the Supreme Court allows. <sup>Time for appeal</sup> <sup>R.S.O. 1960, c. 18</sup>

(2) The appeal shall be begun by filing a notice of appeal with the recorder of the division in which the property in <sup>Notice of appeal</sup>

question or a part of it is situate and paying to him the prescribed fee, and unless such filing and payment are so made, and unless the appeal is set down and a certificate of such setting down lodged with the recorder within five days after the expiration of such fifteen days or the further time allowed under subsection 1, the appeal shall be deemed to be abandoned.

Transmission  
of docu-  
ments

(3) The recorder and, in cases where section 21 applies, the Deputy Minister shall forthwith after the filing of the notice of appeal and the payment of the prescribed fee transmit by registered mail or by express to the office of the Registrar of the Supreme Court, Toronto, the order or judgment and all the exhibits, papers and documents filed therewith.

Extension  
order

(4) Where the time for appealing is extended, the appellant shall forthwith transmit the order for the extension, or a duplicate thereof, by registered mail to the recorder.

Procedure  
on appeals

(5) The practice and procedure, including the disposition of costs, on an appeal shall be the same as in ordinary cases under *The Judicature Act*. 1956, c. 47, s. 7, *part*.

R.S.O. 1960,  
c. 197

No certio-  
rari, etc.

**157.** Except as provided in this Part, proceedings under this Act are not removable into any court by certiorari or otherwise, and no injunction, mandamus or prohibition shall be granted or issued out of any court in respect of anything required or permitted to be done by any officer appointed under this Act. 1956, c. 47, s. 7, *part*.

Defects  
in form

**158.** No proceeding before the Commissioner or a recorder shall be invalidated by reason of any defect in form or substance or failure to comply with this Act, if no substantial wrong or injustice has been thereby done or occasioned. 1956, c. 47, s. 7, *part*.

Power to  
extend time

**159.** Where power is conferred by this Act to extend the time for doing an act or taking a proceeding, unless otherwise expressly provided, the power may be exercised as well after as before the expiration of the time allowed or prescribed for doing the act or taking the proceeding. 1956, c. 47, s. 7, *part*.

Time  
expiring  
on a  
Saturday

**160.** Where the time limited for any proceeding or for the doing of anything in an office of a mining recorder or an office of the Mining Commissioner or an office of the Minister or Deputy Minister expires or falls upon a Saturday, the time so limited extends to and the thing may be done on the day next following that is not a holiday. 1957, c. 71, s. 11.



PART IX

OPERATION OF MINES

**161.**—(1) In this Part,

Interpre-  
tation

- (a) “authorized” means properly authorized to perform any specified duty or to do any specified act, and “qualified” means properly qualified to perform any specified duty or to do any specified act;
- (b) “chief engineer” means the chief engineer of mines for Ontario, and “engineer” means an engineer of mines for Ontario and includes a person designated by the Department as a “district”, “electrical”, or “mechanical” engineer of mines;
- (c) “manager” means the person responsible for the control, management and direction of a mine or a part of a mine or works;
- (d) “rescue station superintendent” means a person in charge of a mine rescue station.

(2) Subject to the requirements of this Act and except as otherwise provided in this Act, responsibility for the authorization and decisions as to the qualifications of employees rests with the employer or his agent. 1957, c. 71, s. 12, *part.*

Responsi-  
bility as to  
qualifications

EMPLOYMENT IN AND ABOUT MINES

**162.**—(1) No male person under the age of sixteen years shall be employed in or about a mine, and no male person under the age of eighteen years shall be employed underground in a mine or at the working face of an open cut workings, pit or quarry.

Employ-  
ment, of  
children

(2) No female person shall be employed at a mine except on surface in a technical, clerical or domestic capacity or such other capacity that requires the exercise of normal feminine skill or dexterity but does not involve strenuous physical effort. 1957, c. 71, s. 12, *part.*

of females

MINE RESCUE STATIONS

**163.**—(1) Mine rescue stations shall be established, equipped, operated and maintained at such places and in such manner as the Minister directs.

Establish-  
ment

(2) The Lieutenant Governor in Council may appoint such mine rescue officers as he deems advisable.

Mine rescue  
officers

(3) The equipment and operation of mine rescue stations shall be in the charge of mine rescue officers and it is the

Duty of  
mine rescue  
officers

duty of such officers to teach and train mine rescue crews and supervisors in the use and maintenance of the apparatus in such manner as the chief engineer directs, to maintain the apparatus in efficient and workable condition so as to be available for immediate use, and to perform such other duties as the chief engineer deems necessary.

Training of  
rescue crews

(4) The owner, agent or manager of a mine shall cause such workmen and supervisors to be trained in the use and maintenance of mine rescue equipment as the district engineer deems necessary.

Responsi-  
bility in  
mine rescue  
operations

(5) The mine manager is responsible for the supervision and direction of mine rescue crews in all mine rescue and recovery operations conducted at the mine.

Cost

(6) The cost of establishing, maintaining and operating mine rescue stations shall be paid out of the Consolidated Revenue Fund.

dem

(7) The Workmen's Compensation Board shall at the end of each quarter year reimburse the Consolidated Revenue Fund from moneys assessed and levied by the Board against employers in the mining industry for the total amount certified by the Deputy Minister to have been paid out under subsection 6.

Disposal of  
equipment,  
etc.

(8) All moneys received from the sale or disposal of any equipment, buildings or machinery forming part of or appertaining to mine rescue stations shall be paid to the Workmen's Compensation Board and shall be placed to the credit of the class funds of the employers in the mining industry. 1957, c. 71, s. 12, *part.*

#### HOURS OF LABOUR UNDERGROUND

Interpre-  
tation

**164.**—(1) In this section,

- (a) "workman" means a person employed underground in a mine who is not the owner or agent or an official of the mine;
- (b) "shift" means a body of workmen whose hours for beginning and terminating work in the mine are the same or approximately the same,

and where any question or dispute arises as to the meaning or application of clause *b* of subsection 2 or as to the meaning of "workman", "shift", or "underground", the certificate of the engineer is conclusive.

Hours of  
labour  
underground

(2) No workman shall remain or be allowed to remain underground in a mine for more than eight hours in any consecutive twenty-four hours, which eight hours shall be

reckoned from the time he arrives at his place of work in the mine until the time he leaves such place, except that,

- (a) a shift or any part of a shift may remain or be allowed to remain underground in a mine for more than eight hours in any consecutive twenty-four hours on one day of a week for the purpose of avoiding work on Sunday, a holiday or changing shift;
- (b) such limit does not apply to a foreman, pumpman, cagetender, or any person engaged solely in surveying or measuring, nor does it apply in cases of emergency where life or property is in imminent danger, nor does it apply in cases of repair work.

(3) No person shall operate or be permitted to operate, either on the surface or underground, a hoist by means of which persons or material are hoisted, lowered or handled in a shaft or winze, for more than eight hours in any consecutive twenty-four hours, except that,

- (a) in the event of one of the regular hoistmen being absent from duty through sickness or otherwise and where no competent substitute is available, the remaining hoistman or hoistmen may work extra time not exceeding four hours each in any consecutive twenty-four hours for a period not exceeding fourteen days;
- (b) in the case where the work at a mine or in a shaft or winze at a mine is not carried out continuously on three shifts per day, the hoistman may work such extra time as is necessary for hoisting or lowering the workmen employed on the shift at the beginning and end of each shift;
- (c) in the cases provided for in clauses *a* and *b* of subsection 2.

(4) This section applies to all parts of Ontario without county organization, and applies to the other parts of Ontario on a day to be named by the Lieutenant Governor by his proclamation. 1957, c. 71, s. 12, *part.*

#### QUALIFICATIONS OF HOISTMEN

**165.**—(1) No person under the age of twenty-one years and no person who has not had adequate experience on a reversing hoist shall be allowed to have charge of a hoist at a shaft or winze in which men are handled at a mine.

(2) No person under the age of eighteen years shall be allowed to have charge of a hoist at a mine.



Hoistman to  
be holder of  
medical  
certificate

(3) No person shall operate or be permitted to operate a hoist at a shaft or winze in which men are handled at a mine, or for any other purpose designated by the engineer, unless the person has been examined by a legally qualified medical practitioner acceptable to the employer and the medical practitioner has issued to the person on the form prescribed a hoistman's medical certificate to the effect that to the best of the practitioner's knowledge the person is not subject to any infirmity, mental or bodily (particularly with regard to sight, hearing and heart), to such a degree as to interfere with the efficient discharge of his duties.

Expiry of  
certificate

(4) Such certificate lapses and shall be deemed to have expired at the end of one year from its date.

Filing of  
certificate

(5) Such certificate shall be kept on file by the employer and made available to the engineer at his request.

Posting  
record of  
certificates

(6) A record of all hoistmen's medical certificates pertaining to hoistmen operating in any one hoistroom shall be kept posted therein, showing the names of the hoistmen and the date of the last certificate issued to each. 1957, c. 71, s. 12, *part.*

Proceedings  
where  
persons  
employed  
contrary to  
Act

**166.** Where a contravention of section 162, 164 or 165 takes place, the owner or agent of the mine, or both of them, may be proceeded against, jointly or separately, and may be convicted of such offence, but neither the owner nor the agent shall be so convicted if he proves that the offence was committed without his knowledge or consent, and that he had caused notices of the said sections to be posted up, and to be kept posted up, at some conspicuous place at or near the entrance to the mining work. 1957, c. 71, s. 12, *part.*

#### MEDICAL EXAMINATIONS

Interpre-  
tation

**167.**—(1) In this section,

- (a) "applicant" means a person who is not the holder of a certificate in good standing who is seeking employment in a dust exposure occupation;
- (b) "certificate" means an initial certificate, an extended certificate, an endorsed certificate, a miner's certificate or a renewed certificate;
- (c) "dust exposure occupation" means,
  - (i) employment underground in a mine,
  - (ii) employment at the surface of a mine in ore or rock crushing operations where the ore or rock is not crushed in water or a chemical

solution that constantly keeps it in a moistened or wet condition,

(iii) employment at other locations, as designated by the chief engineer, at the surface of a mine or in a pit or quarry;

(d) "endorsed certificate" means an initial certificate or extended certificate that has been endorsed under subclause ii of subsection 7;

(e) "extended certificate" means an initial certificate that has been extended under subclause i of subsection 7;

(f) "initial certificate" means a certificate issued to an applicant under subsection 6;

(g) "medical officer" means a medical officer appointed under *The Workmen's Compensation Act* to carry out the provisions of this Act with regard to the examination of employees or applicants for employment; R.S.O. 1960, c. 437

(h) "miner's certificate" means a certificate issued under subsection 8;

(i) "renewed certificate" means a miner's certificate that has been renewed under subsection 9.

(2) No person shall be employed in a dust exposure occupation unless he is the holder of a certificate in good standing. Employment in dust exposure occupation

(3) Subject to subsection 4, every certificate remains in force for not more than twelve months, except that a medical officer may at any time recall the holder of a certificate for examination within the scope of the existing certificate and may extend, endorse, renew or cancel the certificate in accordance with his finding upon the examination. Term of certificate

(4) In the parts of Ontario where the examinations under subsections 6 to 9 are conducted by a travelling medical officer, no certificate shall be deemed to have expired because of the failure of the medical officer to conduct an examination prior to the date of expiration of a certificate, and the holder of a certificate that would otherwise have expired shall present himself before a medical officer for re-examination at the first opportunity available after the date upon which his certificate would have so expired. Examination by travelling medical officer

(5) Where a certificate of a person employed in the mining industry has expired because of the failure of its holder to present himself to a medical officer for examination, a medical officer may extend, endorse or renew the certificate or issue Expiration of certificate

a miner's certificate, as the circumstances of the case require, if he is satisfied that the failure was caused by the inability of the holder to so present himself because of illness or other circumstances beyond his control.

Examination  
before  
employment

(6) Every applicant shall be examined by a medical officer before commencing employment and if the medical officer finds upon examination that the applicant is free from disease of the respiratory organs and otherwise fit for employment in a dust exposure occupation he shall issue to the applicant an initial certificate.

Initial  
certificate  
holder, re-  
examination

(7) The holder of an initial certificate shall, prior to its expiration, present himself to a medical officer for re-examination and, if the medical officer finds upon examination that the holder is free from disease of the respiratory organs and otherwise fit for employment in a dust exposure occupation, he shall,

(a) in the case of a holder who since the issuance of his initial certificate has completed less than eleven months employment in a dust exposure occupation, extend the certificate for such period as he deems necessary to permit the holder to complete twelve months employment in a dust exposure occupation, and he may from time to time extend the certificate for the same purpose, and

(b) in the case of a holder of an initial certificate who since the issuance of his initial certificate has completed eleven months or more employment in a dust exposure occupation, endorse the certificate.

Issue of  
miner's  
certificate

(8) The holder of an endorsed certificate who since the endorsement of his initial certificate has completed eleven months or more employment in a dust exposure occupation shall, prior to its expiration, present himself to a medical officer for examination and, if the medical officer finds upon examination that the holder is free from tuberculosis of the respiratory organs, he shall issue him a miner's certificate.

Miner's  
certificate  
holder, re-  
examination

(9) The holder of a miner's certificate shall, prior to its expiration, present himself to a medical officer for re-examination and, if the medical officer finds upon examination that the holder is free from tuberculosis of the respiratory organs, he shall renew the certificate, which may be further renewed from year to year upon the passing of a similar examination.

Unemployed  
holder of  
certificate

(10) The holder of a certificate who for any reason is out of employment in a dust exposure occupation may apply to a medical officer for the extension, endorsement or renewal of his certificate or for the issuance of a miner's certificate,



as the case may be, and, upon presentation of the holder's certificate, the medical officer shall conduct the required examination and effect such extension, endorsement, renewal or issuance as is warranted by his findings upon the examination.

(11) Where the holder of an initial or extended certificate has been out of employment in the mining industry for a period exceeding one year and during such period has failed, through neglect on his part, to have his certificate extended or endorsed, such certificate is void and its holder is eligible for re-employment in a dust exposure occupation in the capacity of an applicant only.

(12) Where the holder of an endorsed certificate or miner's certificate has been out of employment in the mining industry for a period exceeding two years and during such period has failed, through neglect on his part, to obtain a miner's certificate or to have a miner's certificate renewed, his certificate is void and the holder thereof is eligible for re-employment in a dust exposure occupation in the capacity of an applicant only.

(13) Where the holder of a certificate has been out of employment in the mining industry for a period exceeding three years, he is eligible for re-employment in a dust exposure occupation in the capacity of an applicant only.

(14) The manager or superintendent of the mine at which the holder of a certificate is employed may require the certificate to be delivered to and left in the custody of the manager or superintendent during the period of the holder's employment at the mine, but the certificate shall be returned to the holder upon the termination of his employment at the mine.

(15) The chief engineer may exempt from subsections 2 to 14 any mine or any person employed thereat where, in his opinion, the mine does not contain silica in quantity likely to produce silicosis or where for any other reason he is of the opinion that such subsections should not apply.

(16) Subsections 2 to 14 do not apply to a person usually employed in a dust exposure occupation for less than fifty hours in each calendar month.

(17) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the nature of the examination to be made by a medical officer under subsections 6 to 11;
- (b) prescribing the forms of certificates and extensions, endorsements and renewals thereof;

(c) generally for the better carrying out of this section. 1957, c. 71, s. 12, *part*.

#### PROTECTION OF UNUSED WORKINGS

##### Fencing

**168.**—(1) Where a mine has been abandoned or the work in it has been discontinued, its owner or lessee or any other person interested in the mineral of the mine shall cause the top of the shaft and all entrances from the surface as well as all other pits and openings dangerous by reason of their depth or other conditions to be and to be kept securely fenced or otherwise protected against inadvertent access to the satisfaction of the engineer, except where in his opinion the mine or workings present no greater hazard than the natural topographic features of the district. 1957, c. 71, s. 12, *part*; 1958, c. 59, s. 7 (1), *amended*.

##### Failure to erect fence after notice

(2) Every such person who, after notice in writing from the engineer, fails to comply with his directions as to such fencing or protection within the time specified in the notice is guilty of an offence against this Act. 1957, c. 71, s. 12, *part*; 1958, c. 59, s. 7 (2).

##### When engineer may erect fence

(3) Where the engineer finds that any such fencing or protection is required in order to avoid danger to health or property, he may cause the work to be done and may pay the costs incurred out of any moneys provided for the purposes of this Act, and the amount of such costs, with interest thereon, are a lien and charge upon the mine or mining work of which notice in such form as the Minister prescribes may be registered in the proper registry or land titles office, and no further transfer or other dealings with the mine or mining work shall take place until such amount is paid. 1957, c. 71, s. 12, *part*; 1958, c. 59, s. 7 (3).

##### Recovery of costs of work

(4) The amount of such costs with interest thereon is due from the owner or lessee to the Crown and is recoverable at the suit of the engineer in any court of competent jurisdiction.

##### Discharge of fencing liens

(5) Notwithstanding subsections 3 and 4, the Minister, either without payment or on such terms and conditions as he deems proper, may cause a cessation of charge to be registered in the proper registry or land titles office, and thereupon the lien and charge registered under subsection 3 is void and of no effect. 1957, c. 71, s. 12, *part*.

#### PROCEDURE, FATAL ACCIDENTS

##### Coroner to hold inquest

**169.**—(1) Where a fatal accident occurs in or in connection with a mine, an inquest shall be held.

(2) The manager or other person in charge of a mine <sup>Duty of manager</sup> wherein or in connection wherewith a fatal accident occurs shall forthwith notify a coroner having jurisdiction in the place where the accident occurred.

(3) A coroner who is in any way in the employment of the owner or lessee of a mine wherein or in connection wherewith <sup>Eligibility of coroner</sup> a fatal accident occurs is ineligible to act as coroner in connection with such accident.

(4) Where a fatal accident occurs in or in connection with a mine at a place that is more readily accessible to a coroner not having jurisdiction in such place than to any eligible coroner having jurisdiction thereat, the Supervising Coroner for Ontario may direct such coroner to issue his warrant and conduct an inquest and the direction is such coroner's authority therefor. <sup>Supervising coroner may direct</sup>

(5) The engineer and any person authorized to act on his behalf are entitled to be present and to examine or cross-examine any witness at an inquest held concerning a death caused by an accident at a mine and, if the engineer or someone on his behalf is not present, the coroner shall, before proceeding with the evidence, adjourn the inquest and give the Deputy Minister not less than four days notice of the time and place at which the evidence is to be taken. <sup>Right of engineer re inquest</sup>

(6) Where in or about a mine, metallurgical works, quarry, or sand, clay or gravel pit, an accident occurs that causes <sup>Notice of fatal accidents</sup> loss of life to a person employed thereat, the owner, agent, manager or superintendent thereof shall immediately notify the engineer resident in that part of Ontario in which the accident occurred and the chief engineer by telephone or telegraph.

(7) Subject to subsection 8, no person shall, except for the purpose of saving life or relieving human suffering, interfere with, destroy, carry away or alter the position of any wreckage, article or thing at the scene of or connected with the accident until an engineer has completed an investigation of the circumstances surrounding the accident. <sup>Scene to be undisturbed</sup>

(8) Where it is impossible for an engineer to make an immediate investigation of an accident, the chief engineer or an engineer may permit the wreckage, article and things at the scene of or connected with the accident to be moved to such extent as is necessary to permit the work of the mine, metallurgical works, quarry, or sand, clay or gravel pit, to be proceeded with, if photographs or drawings showing details of the scene of the accident have been made prior to the moving. 1957, c. 71, s. 12, *part.* <sup>Permission to alter scene</sup>



## RESPONSIBILITY AS TO PROVISIONS

Suspension  
of provision

**170.**—(1) Where the owner, agent or manager of a mine, by his application in writing stating his reasons therefor, requests an engineer for the suspension of the requirements of sections 173 to 604 as to such mine, the chief engineer may in writing direct that the requirements of any such provision do not apply to such mine, or may in writing direct that any such provision does not apply so long as such limitations and conditions as he sees fit to impose are observed or complied with.

Cancellation  
of sus-  
pension

(2) The chief engineer may at any time cancel any order made under subsection 1 or make such alterations therein as he deems proper in view of any change in the conditions under which the order was made or upon it appearing to him that such change is advisable for any other reason.

Manager  
may make  
rules

(3) The manager of a mine may make rules not inconsistent with any provision of this Part or any special direction made by an engineer as herein provided for the maintenance of order and discipline and the prevention of accidents in the mine, and may submit any rule so made to the chief engineer, who shall lay the rules before the Minister for his approval and, upon such approval being given, the rules take effect after they have been posted up in a conspicuous place at the mine for at least fourteen days, but the Minister may disallow any of such rules or direct such changes to be made in them as he deems proper.

Idem

(4) Every such rule, after approval and when and so long as it is posted up and is legible, has the same force and effect as the provisions of this Act and any person who contravenes any such rule is liable to the penalty provided for a breach of the provisions of this Act.

Responsi-  
bility as to  
carrying  
out rules

(5) The owner of a working mine or works shall appoint a manager who is responsible for the control, management and direction of the mine or works.

Idem

(6) Except as to any provisions that the chief engineer has directed are not applicable thereto,

(a) the manager of the mine shall take all necessary and reasonable measures to enforce the provisions of this Part and to ensure that they are observed by every employee of the mine, and every foreman, shift boss, mine captain and department head shall take all necessary and reasonable measures to enforce the requirements of all such provisions as are applicable to the work over which he has supervision and to ensure that they are observed by the workmen under his charge and direction,

- (b) every workman shall take all necessary and reasonable measures to carry out his duties in accordance with such provisions as are applicable to the work in which he is engaged,
  - (c) every person through whose neglect or wrongful act a contravention occurs shall be deemed to have incurred the penalties provided for a breach of the provisions of this Part.
- (7) The manager of a working property shall appoint one <sup>Idem</sup> or more suitable persons who are responsible, during the manager's absence, for taking all necessary and reasonable measures to enforce the requirements of subsection 6.
- (8) The owner or agent shall provide the manager of a <sup>Owner to give facilities to manager to comply</sup> mine or works with the necessary means and shall afford him every facility for complying with this Part.
- (9) Where work in or about a mine is let to a contractor <sup>Liability of contractors and sub-contractors</sup> or sub-contractor, he shall comply and enforce compliance with all the provisions of this Part pertaining to the work over which he has control and is in any case of non-compliance therewith guilty of an offence and punishable in like manner as if he were owner or agent. 1957, c. 71, s. 12, *part*.

#### REQUIREMENTS

**171.** Subject to section 170, sections 173 to 604 shall be <sup>Requirements</sup> observed and carried out at every mine. 1957, c. 71, s. 12, *part, amended*.

**172.** In sections 173 to 604,

<sup>Interpretation</sup>

- (a) "charge" means the explosives to be exploded by a single detonator;
- (b) "fire-resisting", when applied to buildings, structures or parts thereof, means constructed of steel, masonry, reinforced concrete or other equivalent material or any combination of such materials;
- (c) "shot" means the sound of a charge or charges being exploded,

and the decision of an engineer as to whether or not a situation complies with a requirement therein in which "suitable", "adequate", "approved", or any expression of like import is used and as to the meaning and application of any such expression is final and conclusive and a certificate of any such decision signed by the engineer may be used as evidence in any court. 1957, c. 71, s. 12, *part, amended*.

Duty as to  
knowledge  
of require-  
ments

**173.**—(1) It is the duty of every manager, superintendent, mine foreman, shift boss, hoistman, deckman, cagetender or skiptender, and every person in charge of workmen, or who handles explosives, or who operates, installs or has to do with maintenance of any machinery or electrical apparatus in or about a mine, to know the requirements of this Part that apply to the work in which he is engaged.

Foreman,  
knowledge  
of English  
language

(2) Every person employed as a foreman, meaning thereby one who is exclusively engaged in supervising the work of other men, shall be able to give and to receive and understand orders in the English language.

Other  
workmen,  
knowledge  
of English  
language

(3) Every person in charge as a deckman, cagetender, skiptender or hoistman shall have an adequate knowledge of the English language to enable him to carry out his duties in a thoroughly safe manner. 1957, c. 71, s. 12, *part, amended*.

#### *Fire Protection*

Procedure

**174.**—(1) General procedure to be followed both on surface and underground in case of fire underground or in a mine plant building that may endanger the mine entrance shall be drawn up and all persons concerned shall be informed and kept informed of their duties.

Posting

(2) Copies of the procedure or suitable excerpts shall be kept posted in the shafthouse and other prominent places.

Idem

(3) Procedures for fighting fire in surface plant buildings at a mine shall be drawn up and suitable signs pertaining to and excerpts from the procedures shall be kept posted in prominent places.

Tests

(4) Tests of the effectiveness of such procedure shall be made at least once a year and a report of the effectiveness of the test shall be made available to the engineer. 1957, c. 71, s. 12, *part*.

Stench  
warning

**175.**—(1) Every mine worked from shafts or adits producing over 100 tons of ore per day and such other mines as are designated by the engineer shall be equipped with an approved apparatus for the introduction into the mine workings of ethyl mercaptan or other warning gas or material approved by the chief engineer and such apparatus shall be available at all times in a suitable location and kept ready for instant use for the purpose of warning workmen underground of any emergency necessitating a speedy evacuation of the workings.

Idem

(2) A test of the effectiveness of the procedure set out in subsection 1 of section 174 shall be made at least once a year. 1957, c. 71, s. 12, *part*.



**176.**—(1) No flammable refuse shall be allowed to accumulate underground but shall be removed from the workings at least once a week and brought to the surface and there disposed of in a suitable manner. <sup>Flammable refuse</sup>

(2) Flammable refuse shall not be allowed to accumulate in or about a headframe, shafthouse, portalhouse or any other plant building. <sup>Idem</sup>

(3) Suitable metal containers for the temporary disposal of flammable refuse, such as scrap paper, oily waste, rags and other similar materials, shall be provided at all shaft stations, underground shops, lunch rooms and buildings or enclosures necessary for the housing of machinery or equipment or stores, and such containers shall be regularly emptied and the material accumulated brought to the surface and disposed of in a suitable manner. <sup>Idem</sup>

(4) All timber not in use in a mine shall as soon as practicable be taken from the mine and shall not be piled up and permitted to decay therein. <sup>Unused timber</sup>

(5) Every shift boss and mine captain shall certify in writing to the mine manager at least once a week that there is no accumulation of flammable refuse underground in the area under his supervision except as reported by him. <sup>Certificate as to flammable refuse</sup>

(6) Oil, grease or other flammable material shall not be stored in a shafthouse or portalhouse, but it is permissible, if adequate precautions are taken, to have in the shafthouse or portalhouse, for distribution only, an amount not exceeding the requirements for one day's operation. <sup>Storage of oil and grease</sup>

(7) Volatile, flammable liquids shall not be stored in a shafthouse or portalhouse and such material shall be transported underground only in approved types of metal containers. <sup>Volatile, flammable liquids</sup>

(8) Oil, grease or volatile flammable liquid while underground shall be contained in suitable receptacles and the amount of oil or grease so kept underground shall not exceed the requirements for seven days and the amount of volatile flammable liquid kept underground shall not exceed the requirements for the current day's work. 1957, c. 71, s. 12, *part*. <sup>Oil and grease underground</sup>

**177.** No person shall build, set or maintain a fire underground for any purpose unless he has proper authority and suitable instructions for so doing, and only after the necessary fire-fighting equipment has been provided. 1957, c. 71, s. 12, *part*. <sup>Building fires prohibited</sup>

**178.** Where open-flame lights are used at a mine not equipped with a headframe and shafthouse, or portalhouse <sup>Open-flame lights, precautions</sup>

constructed of fire-resisting materials, the interior of the shafthouse or portalhouse shall be tightly sheeted with metal or a suitable fire-resisting material to a height of eight feet. 1957, c. 71, s. 12, *part*.

Underground  
structures

**179.** All underground shops, lunch rooms and buildings or enclosures necessary for the housing of machinery and equipment and stores and the furnishings of such shall be so located, constructed and maintained as to reduce the fire hazard to a minimum. 1957, c. 71, s. 12, *part*.

Fire hazard  
areas

**180.**—(1) If the engineer is of the opinion that a fire hazard may be created at a mine by smoking, or by the use of open-flame lamps, matches, or other means of producing heat or fire, he may designate the mine or part or parts of the mine as a fire hazard area.

Idem

(2) No person shall smoke or be allowed to smoke, use open-flame lamps, matches or other means of producing heat or fire in such areas except with the permission in writing of the engineer and under such conditions as he deems proper.

Idem

(3) Such fire hazard areas shall be properly identified by suitable warning signs.

Idem

(4) The owner or manager shall cause such signs to be installed and maintained as long as the area is so designated. 1957, c. 71, s. 12, *part*.

When  
flammable  
gas en-  
countered  
in mine

**181.** When a flammable gas in dangerous concentrations has been found to exist in a mine working, such working or the parts of such working concerned shall immediately be considered as a fire hazard area and every precaution shall be taken while clearing the area or doing any work therein to prevent ignition of the gas and these precautions shall be continued as long as the hazard exists. 1957, c. 71, s. 12, *part*.

Fire-fighting  
equipment

**182.**—(1) Suitable fire-fighting equipment shall be provided and maintained in or about every headframe, shafthouse, portalhouse and every other plant building and at every shaft or winze station underground.

Idem

(2) Suitable fire-fighting equipment shall be provided and maintained at all underground crushers, pump stations, tipples and underground electrical installations except where, in the opinion of the engineer, no fire hazard exists.

Idem

(3) A properly authorized person or persons shall make a monthly inspection of all fire-fighting equipment and shall make a report in writing to the manager stating that such examination has been made and certifying as to the conditions found. 1957, c. 71, s. 12, *part*.

**183.**—(1) Calcium carbide shall be stored on the surface only in a suitable, dry place, other than the shafthouse or portalhouse or changehouse, and in its original unopened container. Storage of carbide

(2) For the purpose of distributing calcium carbide, adequate provisions for the handling of quantities not in excess of one day's supply or 100 pounds, whichever is the greater, shall be made at every mine. Distribution of carbide

(3) Such distribution shall not take place in a shafthouse, portalhouse or changehouse unless such structure is fire-resisting but shall be provided for by the installation of a suitable distribution centre not closer than fifty feet to the nearest point of any part of the headframe, shafthouse or portalhouse. Idem

(4) Adequate precautions shall always be taken to ensure that calcium carbide is handled in a safe manner and no calcium carbide shall be taken underground except in suitable containers. 1957, c. 71, s. 12, *part.* Handling of carbide

**184.** Where operations involving the use of acetylene, kerosene, gasoline or other torches are conducted in a headframe, shafthouse, portalhouse or other building in which a fire may endanger the mine entrance or the underground workings of a mine, suitable measures for protection against fire shall be adopted and rigidly adhered to. 1957, c. 71, s. 12, *part.* Fire protection where torches used

**185.**—(1) Where cylinders of compressed gas, such as acetylene and oxygen, are transported underground for any cutting or welding operation, all fittings, such as regulators and manifolds, shall be disconnected from the cylinders and the valves shall be protected in a suitable manner. Underground transportation of compressed gases

(2) Any such removable protective device shall be replaced at any time a cylinder is left unattended or before a cylinder is moved to a new location. Idem

(3) In all cases where cylinders of compressed gas are operated from within any cage, skip or other shaft conveyance, or where the cylinders are set up in a location not readily accessible to the workman operating the nozzle equipment, a second competent person shall be employed at all times to attend to the operation of the cylinder-control devices. Operation of welding and cutting torches

(4) In all cases where cylinders of compressed gas are used underground for the purpose of supplying cutting or welding equipment, special precautions shall be observed to avert the possibility of damage to or failure of the regulators, manifolds and hoses used in conjunction with the equipment. 1957, c. 71, s. 12, *part.* Compressed gas



Generation  
of gas  
underground  
forbidden

**186.** No device for the generation of gas, such as acetylene for supplying cutting or welding equipment, shall be used in the underground workings of a mine. 1957, c. 71, s. 12, *part.*

Escapement  
exit

**187.**—(1) In every mine where a vertical or inclined shaft has been sunk or an adit driven and stoping has commenced, there shall be provided and maintained, in addition to the hoisting shaft or the opening through which men are let into or out of the mine and the ore extracted, a separate escapement exit.

Location  
of exit

(2) Such exit shall not be less than fifty feet from the main entrance to the mine and any structure covering such exit shall be of such material and so constructed to reduce the fire hazard to a minimum.

When  
necessary

(3) If such an escapement exit is not in existence at the time that stoping is commenced, work upon it shall be begun as soon as stoping is commenced, and shall be diligently prosecuted until it is completed and means of escapement, other than the main outlet of the mine, provided to and connected with the lowest level on which stoping operations are being carried on.

Size of exit

(4) The escapement exit shall be of sufficient size to afford an easy passageway and, where necessary, shall be provided with good and substantial ladders from the deepest workings to the surface.

Monthly  
exit  
inspection

(5) The manager shall depute some competent person or persons to make an inspection of such exit at least once a month.

Record of  
inspection

(6) A record of such inspection and the conditions found shall be made in writing by the person making it.

Legible  
signs show-  
ing exits

(7) Legible signs showing the way to escapement exits shall be posted in prominent places underground and all workmen shall be instructed as to the location of the escapement exits. 1957, c. 71, s. 12, *part.*

Buildings in  
proximity to  
mine  
entrance

**188.** Unless there is first provided a second means of exit from the mine workings, no building of other than fire-resisting construction shall be erected within fifty feet of any closed-in part of a headframe or portalhouse, except that the building housing the hoist and power plant equipment may be erected within this distance so long as such distance is not less than thirty-five feet. 1957, c. 71, s. 12, *part.*

Auxiliary  
exits for  
plant  
buildings

**189.**—(1) All plant buildings where men are regularly employed, except those used for explosives, shall have suitable and adequate auxiliary exits in addition to the main entrance.

(2) Such auxiliary exits shall be maintained for use in case of fire. 1957, c. 71, s. 12, *part*. Availability

**190.** No steam boiler or diesel engine shall be installed in such a manner that any part thereof is within seventy-five feet of the centre line of the collar of a shaft or other entrance to a mine. 1957, c. 71, s. 12, *part*. Location of boilers and diesel engines

**191.** No gasoline or other internal combustion engine using highly volatile liquids or flammable gases shall be installed within fifty feet of the building housing the hoist nor within 100 feet of the centre line of the collar of a shaft or other entrance to a mine. 1957, c. 71, s. 12, *part*. Location of internal combustion engines

**192.—**(1) Where an internal combustion engine is installed at a mine, provisions shall be made for safely conducting the exhaust of such engine to a point well outside the building. Exhaust of internal combustion engines

(2) The exhaust shall be so arranged as to avert the possibility of fumes re-entering the building or entering the intake of an air compressor or contaminating the atmosphere of any adjacent buildings or the mine workings. 1957, c. 71, s. 12, *part*. Idem

**193.—**(1) Except for the actual fuel tanks of operating equipment, no storage of gasoline or liquid fuel shall be permitted within 100 feet of the collar of a shaft or other entrance of a mine. Storage of liquid fuels

(2) The natural drainage from such a location shall be such that the flow is in a direction opposite to the location of any such shaft or mine entrance. 1957, c. 71, s. 12, *part*. Idem

**194.—**(1) The fuel tanks of an internal combustion engine installed in a building shall be so arranged that the actual transfer of fuel to the fuel tank takes place at a point outside the building and the fuel is conducted to the tank in a tightly-jointed pipe or conduit. Transfer of liquid fuel

(2) Similar provisions for the escape of displaced air from the fuel tank shall be made whereby the displaced air will be conducted to a safe point outside the building before being discharged into the atmosphere. Idem

(3) The transfer of liquid fuels from one container to another by the direct application of air under pressure shall not be permitted, except where properly designed and tested equipment is used for this purpose. 1957, c. 71, s. 12, *part*. Idem

**195.—**(1) Where practicable, there shall be a sufficient number of fire doors installed underground in every mine to Fire doors

cut off the shaft and the mine openings directly associated with it from the other workings of the mine.

Properly  
maintained

(2) Where fire doors are installed, they shall be maintained in proper order and kept clear of all obstructions so as to be readily usable at all times. 1957, c. 71, s. 12, *part.*

Refuge  
stations

**196.** Where the chief engineer deems it necessary or advisable for the protection of workmen employed underground, he may order refuge stations to be provided and maintained at such places in the mine as he directs and every such refuge station shall have water, air and telephone connections to the surface and be separated from the adjoining workings by closeable openings so arranged and equipped that gases can be prevented from entering the refuge station. 1957, c. 71, s. 12, *part.*

Connection  
between  
mines

**197.**—(1) Where the chief engineer deems it necessary or advisable for the protection of workmen employed underground, he may recommend in writing to the Minister that a connection between mines be established at such places as he deems advisable and he may further recommend that such connection be so made and equipped as to constitute a refuge station or refuge stations.

Idem

(2) Upon the approval by the Minister of any such recommendation, a copy thereof, accompanied by a copy of this section, shall be served personally upon or sent by registered mail to the owner or the agent and the manager of each of the mines affected.

Committee

(3) Upon the approval of such a recommendation of the chief engineer, the Minister may in writing signed by him direct each of the mining companies concerned to appoint a representative to act in their behalf on a committee under the chairmanship of a third party who shall be a mining engineer recommended by the chief engineer and appointed to the chairmanship of the committee by the Minister, and the committee shall determine,

- (a) the design, specifications and location of the connecting passages, bulkheads or other structures to be constructed in order to safeguard the present and future operations of the mines affected;
- (b) the work to be done by each of the mines affected and the proportion in which the cost of the work and of establishing and maintaining the connection shall be borne by the owners of the mines affected;
- (c) the time at which the work in compliance herewith shall be commenced and completed;



(d) the proportion in which the costs and expenses of the committee shall be borne by the owners of the mines affected;

(e) such other provisions or requirements as in the premises they deem necessary or advisable.

(4) The committee shall submit a report in writing to the <sup>Idem</sup> Minister and a report of the majority of the committee shall be deemed to be the finding of the committee.

(5) Upon the approval by the Minister of the report of <sup>Idem</sup> the committee, the chief engineer may issue his order for the establishment and maintenance of such connection and refuge station or stations (if any are recommended) in accordance with the terms of the report.

(6) A copy of the report shall be attached to the order and <sup>Idem</sup> forms a part thereof.

(7) No such order is subject to appeal upon any ground <sup>Idem</sup> whatsoever and is enforceable in the same manner as any order of the chief engineer. 1957, c. 71, s. 12, *part*.

#### *Aid to Injured*

**198.**—(1) At every mine there shall be maintained a <sup>Stretchers</sup> sufficient number of properly constructed stretchers for the proper handling and transporting of persons who are injured in the discharge of their duties about the mine.

(2) There shall be provided and maintained at every mine <sup>First aid supplies</sup> for the treatment of any person injured such first aid supplies as are required by the regulations under *The Workmen's Compensation Act*. 1957, c. 71, s. 12, *part*. <sup>R.S.O. 1960. o. 437</sup>

#### *Handling Water*

**199.** Every working mine shall be provided with suitable <sup>Removal of water from mine workings</sup> and efficient machinery and appliances for keeping the mine free from water, the accumulation or flowing of which might endanger the lives of workmen in the mine or in any adjoining mine. 1957, c. 71, s. 12, *part*.

**200.** Where there is or may be an accumulation of water, <sup>Precautions against flow of water</sup> any working approaching the same shall have bore holes kept in advance, and such additional precautionary measures shall be taken as are deemed necessary to obviate the danger of a sudden breaking through of the water. 1957, c. 71, s. 12, *part*.

**201.** A bulkhead or other suitable stop shall be placed in <sup>Bulkhead in sump</sup> every working shaft to prevent that part of the hoisting

conveyance carrying men from being inadvertently lowered into water in the sump of the shaft. 1957, c. 71, s. 12, *part*.

Interpre-  
tation

**202.**—(1) For the purposes of this section,

(a) “bulkhead” means any structure built for the purpose of impounding water or confining air under pressure in a drift, crosscut or any other mine opening and constructed in such a manner as to completely close off such drift, crosscut or other mine opening;

(b) “dam” means a structure built for the purpose of impounding water in a drift, crosscut or other mine opening and built in such a manner as to permit an unobstructed overflow of the water.

Location of  
bulkhead  
and dam

(2) The location of every underground bulkhead and dam within the meaning of this section shall be clearly shown on the mine plans.

Permission  
necessary,  
for dam

(3) No dam behind which more than twenty-five tons of water may be impounded shall be constructed underground without the written permission of the chief engineer and then only when constructed in accordance with plans and specifications that have been approved by him.

for bulkhead

(4) No bulkhead shall be constructed underground without the written permission of the chief engineer and then only when constructed in accordance with plans and specifications that have been approved by him.

Completion  
of bulkhead

(5) On the completion of the installation of a bulkhead, the manager shall immediately notify the chief engineer that it has been completed. 1957, c. 71, s. 12, *part*.

### *Ventilation*

Ventilation

**203.**—(1) The ventilation in every mine shall be such that the air in all of its workings that are in use or are to be used by workmen or others shall be free from dangerous amounts of noxious impurities and shall contain sufficient oxygen to obviate danger to the health of anyone employed in the mine.

Mechanical  
ventilation

(2) In mine workings where such conditions cannot be obtained by natural ventilation, approved means for mechanical ventilation shall be provided and kept in operation until the workings have been abandoned or until satisfactory natural ventilation has been brought about therein.

Idem

(3) All structures containing fans used in connection with the underground ventilation of a mine shall be of such construction as to reduce the fire hazard to a minimum. 1957, c. 71, s. 12, *part*.

**204.** Underground workings that have been in disuse for some time and that are not in the main ventilation circuit shall be examined before being again used in order to ascertain whether dangerous gases have accumulated there or whether an oxygen deficiency exists, and only such workmen as are necessary to make such examination shall be allowed to proceed to such places until such places are safe to work or travel in. 1957, c. 71, s. 12, *part*. <sup>Unused workings to be tested for gas</sup>

**205.**—(1) No internal combustion engine shall be installed or operated in a shaft or adit, or in any working in connection with a shaft or adit, unless permission in writing from the chief engineer is first obtained. <sup>Internal combustion engine underground</sup>

(2) No internal combustion engine shall be installed or operated in any clay, sand or gravel pit or in any quarry or other open pit working designated by the engineer as unsafe for this purpose. 1957, c. 71, s. 12, *part*. <sup>Idem</sup>

### *Sanitation*

**206.** The manager of a mine shall provide or cause to be provided on the surface and in the underground workings sufficient and suitable sanitary conveniences in accordance with the following requirements: <sup>Sanitary conveniences</sup>

1. Where men are employed underground, one sanitary convenience shall be provided for every twenty-five persons or portion thereof on any shift.
2. Where men are employed on surface, one sanitary convenience and one urinal shall be provided for every twenty-five persons or portion thereof on any shift.
3. Where women are employed, separate toilets with entirely separate entrances from those furnished the men shall be provided.
4. One toilet shall be provided for every fifteen women or portion thereof on any shift.
5. Such rooms shall be clearly marked as to the sex for which they are provided.

**207.**—(1) Sanitary conveniences underground shall be, <sup>Idem</sup>

- (a) conveniently placed having regard to the number of men employed on the different levels;
- (b) placed in a well-ventilated part of the mine;
- (c) kept clean and sanitary; and
- (d) suitably disposed of regularly.



Idem (2) Sanitary conveniences, urinals and toilets on surface shall be kept clean and sanitary. 1957, c. 71, s. 12, *part*.

Idem **208.** Any person depositing faeces in any place underground, other than in the sanitary conveniences provided, is guilty of an offence against this Act. 1957, c. 71, s. 12, *part*.

Drinking water **209.** A supply of wholesome drinking water shall be provided both on surface and underground at points reasonably accessible to the working places. 1957, c. 71, s. 12, *part*.

Dressing room **210.—**(1) If men are employed underground or in hot or dusty occupations on surface at a mine or works, suitable and sufficient accommodation, including supplies of clean, cold and warm water for washing, shall be provided above ground near the principal entrance of the mine or works for enabling the persons employed to conveniently dry and change their clothes.

Location of dressing room (2) Such accommodation, unless of fire-resisting construction, shall not be nearer than fifty feet to a shafthouse or portalhouse and it shall not be located in a hoistroom or boilerhouse except where a separate, properly constructed room is provided. 1957, c. 71, s. 12, *part*.

#### *Care and Use of Explosives*

Precaution to be taken **211.** Every possible precaution shall be taken in the handling and transportation of explosives. 1957, c. 71, s. 12, *part*.

Marking of explosives **212.** No explosive shall be used at a mine unless there is plainly printed or marked on every original package containing such explosive the name and place of business of the manufacturer, the strength of the explosive and the date of its manufacture. 1957, c. 71, s. 12, *part*.

Fume classification of explosives **213.** Only explosives in Fume Class I as established by the Bureau of Mines of Canada shall be used underground. 1957, c. 71, s. 12, *part*.

Defective explosives to be reported **214.** Every case of supposedly defective fuse, detonator or blasting cap, or explosive, shall be reported to an engineer with the name and address of the manufacturer and accompanied, if available, by the packing slip from the original container of such fuse, blasting cap or detonator, or explosive, along with all other pertinent information available. 1957, c. 71, s. 12, *part*.

**215.**—(1) Except as otherwise provided, all explosives and all detonators or blasting caps shall be stored on surface in special suitable buildings, such as magazines, thaw houses, detonator or blasting cap storage buildings, or cap and fuse houses. Storage of explosives

(2) Every such building shall be under the direction of the manager or a person authorized by him. Storage under authorized person

(3) No such building shall be erected or maintained at a mine except with the written permission of an engineer, nor until the site of the building and the style of structure have been approved by him. Permission, necessary before construction

(4) Such written permission shall state the maximum quantity and kind of explosive that may be stored in the building. to state quantity

(5) The permission shall be posted in the building. posting

(6) Where possible, every such building shall be located in accordance with the British Table of Distances in respect of its distance from the mine or works or any other buildings or any public highway or public railway. British Table of Distances

(7) Where conditions are such that it is impossible to locate such buildings in accordance with the British Table of Distances, the mine manager and an engineer shall jointly choose the most suitable location. Idem

(8) Every such building shall be constructed of such materials as to ensure as far as possible against accident from any cause. Materials used in building

(9) The requirements in reference to the care and use of explosives shall be kept posted up inside every such building. Requirements to be posted

(10) Every such building shall be kept securely locked at all times that the attendant is not present and it shall be clearly indicated by one or more easily-visible signs that explosives are stored therein. Buildings locked and signs

(11) Such sign or signs shall be posted beside the road approaches to the building at least eight feet above the ground and twenty-five feet distant from the entrance. 1957, c. 71, s. 12, *part*. Posting of signs

**216.** The manager shall depute or cause to be deputed some suitable person or persons whose duty it is to keep all magazines, thaw houses, blasting cap storage buildings, cap and fuse houses, and explosives storage boxes clean and dry and free from grit at all times. 1957, c. 71, s. 12, *part*. Magazines, thaw houses, etc.

Floors and  
shelves

**217.** Floors and shelves of magazines and thaw houses shall be treated with a suitable neutralizing agent whenever necessary to remove any traces of explosive substances. 1957, c. 71, s. 12, *part*.

What  
explosives  
to be used  
first

**218.**—(1) When supplies of explosives are removed from a magazine, those that have been longest in the magazine shall be used first provided they are not defective.

Defective  
explosives

(2) In all cases where explosives have become defective, they shall be suitably and safely disposed of. 1957, c. 71, s. 12, *part*.

Opening  
cases

**219.** Only implements of wood or fibre shall be used in opening cases containing explosives. 1957, c. 71, s. 12, *part*.

Storage of  
explosives  
underground

**220.**—(1) Explosives, including caps, fuse and igniter cord, shall not be stored underground in excess of the necessary underground supply for forty-eight hours.

Storage  
exceeding  
300 pounds

(2) In no case shall an amount exceeding 300 pounds of powder be stored in any one place underground without the written permission of an engineer.

Permission  
for up to  
1,000 pounds

(3) With the written permission of an engineer and subject to such conditions as he prescribes, other underground explosives storages may be established, but in no case shall more than 1,000 pounds of powder be stored in any one storage place.

Suitable  
storage

(4) Explosives stored underground shall be kept in suitable containers or storage places in suitable locations.

Protection  
from trains,  
etc.

(5) In no case shall the explosives be stored in places where there is a possibility of a train or car colliding with the explosives container or containers.

Idem

(6) Where explosives in excess of what may be stored in approved underground storages are required for such operations as longhole blasts, etc., only such quantities as can be loaded in a twenty-four hour period shall be kept underground at any time for such blast.

Idem

(7) Any explosives not loaded at the end of a shift shall be stored in accordance with this section or be adequately guarded. 1957, c. 71, s. 12, *part*.

Location of  
underground  
storage  
place

**221.** No explosive shall be stored within 200 feet of a shaft station or transformer station underground. 1957, c. 71, s. 12, *part*.



**222.**—(1) Detonators or blasting caps or igniter cord shall not be stored in the same receptacle or storage building as other explosives. <sup>Storage of detonators</sup>

(2) Detonators or blasting caps or capped fuses or igniter cord, while stored in underground workings, shall be kept in separate, suitable, closed containers or storage places. <sup>Separate containers</sup>

(3) Such containers or storage places shall not be located within twenty-five feet of any other explosives. 1957, c. 71, s. 12, *part*. <sup>Idem</sup>

**223.**—(1) No flame-type light shall be taken within twenty-five feet of any building or place on surface in which explosives are stored. <sup>Open-flame lamps</sup>

(2) No flame-type light shall be taken within ten feet of any place underground where explosives are stored unless a suitable, safe arrangement for the placing of such light is provided. <sup>Idem</sup>

(3) No person shall smoke in any place or building where explosives are stored or while handling explosives. 1957, c. 71, s. 12, *part*. <sup>Smoking</sup>

**224.**—(1) A properly authorized person or persons shall make a thorough weekly inspection of all explosives, explosives magazines, thaw houses, detonator or blasting cap storage buildings, cap and fuse houses, and all storage boxes or places in or about the mine used for the purpose of storing explosives or detonators or blasting caps and shall make a report in writing to the manager stating that such inspection has been made and certifying as to the conditions found. <sup>Inspection of storage places</sup>

(2) The manager shall take immediate steps to correct any unsuitable conditions found and to properly dispose of any deteriorated explosives. <sup>Unsuitable conditions rectified</sup>

(3) The manager shall make a prompt investigation when an act of careless placing or handling of explosives is discovered by or reported to him. <sup>Careless acts</sup>

(4) Any employee who commits a careless act with an explosive or where explosives are stored, or who, having discovered such an act to have been committed, omits or neglects to report immediately such act to an officer in charge of the mine, is guilty of an offence against this Act and the officer in charge of the mine shall immediately report such offence to the engineer or to the Crown attorney of the county or district in which the mine is situate. 1957, c. 71, s. 12, *part*. <sup>Report of carelessness to engineer</sup>

**225.** When a mine is closed down, all explosives, fuse, detonators and blasting caps shall be disposed of and no <sup>Disposal of explosives at shut-down mine</sup>

explosive shall be stored at any such closed-down mine without the written permission of the chief engineer. 1957, c. 71, s. 12, *part.*

Written permission

**226.** No person shall take away from a mine any explosive, fuse or detonator or blasting cap without the written permission of the manager or of such person as is authorized by the manager to give such permission. 1957, c. 71, s. 12, *part.*

Thaw houses

**227.**—(1) No building for thawing explosives shall be maintained in connection with a mine except with the written permission of an engineer.

Approval of building

(2) The building shall be above ground and the site of the building and the style of the structure and equipment shall be subject to the approval of an engineer.

Quantity stored

(3) The quantity of explosive kept in a thaw house at any time shall not exceed the requirements of the mine for a period of twenty-four hours plus the amount that may be necessary to maintain that supply, but an engineer may give permission in writing to store a quantity not in excess of the permitted capacity of the building if, in his opinion, the heating equipment is such that the temperature can be controlled within approved safe limits.

Thermometer in thaw house

(4) A reliable recording thermometer shall be kept in the room in which explosives are thawed and the record thereof kept, but, where the amount of explosives in such thawing room does not exceed 200 pounds at any one time, an engineer may give permission in writing to use a maximum and minimum registering thermometer on condition that a daily record of high and low temperatures be made and kept on file for at least one year.

Idem

(5) All such records shall be made available to an engineer. 1957, c. 71, s. 12, *part.*

Prohibition

**228.** In no case shall powder be thawed near an open fire or steam boiler or by direct contact with steam or hot water. 1957, c. 71, s. 12, *part.*

Transportation of explosives on surface

**229.**—(1) This section applies only on mining properties.

Idem

(2) Every motor vehicle used for carrying explosives shall be maintained in sound mechanical condition in all respects.

Idem

(3) Every such motor vehicle shall be conspicuously marked by suitable signs or suitable red flags easily visible from front and rear.

(4) The metal parts of every such vehicle that may come *Idem* in contact with explosives containers shall be suitably covered with wood, tarpaulin or other suitable materials.

(5) No other goods or materials shall be carried in or on *Idem* any vehicle in which explosives are being carried.

(6) Every motor vehicle transporting more than 150 pounds *Idem* of explosives shall be equipped with a fire extinguisher in working order, of adequate size and capable of dealing with a gasoline or oil fire.

(7) No motor vehicle carrying explosives shall be loaded *Idem* with more than 80 per cent of the manufacturer's rated capacity.

(8) Explosives carried on vehicles shall be so secured or *Idem* fastened as to prevent any part of the load from becoming dislodged.

(9) Detonators shall not be carried in the same vehicle as *Idem* other explosives except in a suitable container in a separated compartment and in such case the number shall not exceed 1,000 detonators.

(10) A vehicle carrying explosives shall not be left un-*Idem* attended.

(11) Only those persons necessary for the handling of ex-*Idem* plosives shall travel on the vehicle when carrying explosives.

(12) There shall be no smoking by persons on the vehicle *Idem* while transporting explosives. 1957, c. 71, s. 12, *part*.

**230.**—(1) When the day's supply of explosives is being *Transportation of explosives in shaft* transported in a shaft conveyance, the person in charge of such operation shall give or cause to be given notice of the same to the deckman and hoistman.

(2) No person shall,

*Authori-  
zation to  
handle*

(a) place in;

(b) have while in; or

(c) take out of,

the shaft conveyance any explosives except under the immediate supervision of a person authorized for the purpose by the manager, superintendent, foreman or shift boss.

(3) No other material shall be transported with explosives *No other material in conveyance* in a shaft conveyance. 1957, c. 71, s. 12, *part*.



Transfer of  
explosives  
from storage  
places

**231.**—(1) The transfer of explosives from the magazine or other surface storage place shall be so arranged that no undue delay shall occur between the time the explosives leave the surface storage place and the time they are properly stored in designated storage places in the mine or distributed to points of use in the mine.

Transfer  
without  
undue delay

(2) Explosives shall not be left at a level station or near the shaft collar or other entrance to the mine but shall be transferred from a designated storage place to other designated storage places or points of use without undue delay. 1957, c. 71, s. 12, *part*.

Transportation of  
detonators

**232.**—(1) Primers shall be made up as near to their point of use as is practical in the interests of safety and only in sufficient numbers for the immediate work in hand.

Suitable  
containers

(2) Detonators or blasting caps, capped fuses, made-up primers, igniter cord or other explosives shall not be transported in a conveyance either on surface or underground unless placed in separate, suitable, closed containers.

Kept  
separate  
from other  
explosives

(3) A workman may carry capped fuses with other explosives from the nearest storage places to a point of use without placing them in a container, if they are kept separate from the other explosives.

Made-up  
primers

(4) In no case shall made-up primers be transported or carried unless placed in separate, suitable, closed containers. 1957, c. 71, s. 12, *part*.

Transportation  
underground

**233.**—(1) Where explosives are transported in mine workings by means of a car or cars, the speed of any car or cars shall not at any time exceed 4 miles an hour and definite arrangements for the right of way of the car or cars carrying explosives shall be made before the car or cars are moved.

Idem

(2) Where mechanical haulage is used, the haulage locomotive shall be maintained on the forward end of the train carrying explosives unless some person walks in advance of the train to effectively guard it.

Idem

(3) The car or cars carrying explosives shall be separated from the locomotive by an empty car or a spacer of equivalent length, but in no case shall explosives be carried on the haulage locomotive.

Transportation  
by trolley  
locomotive

(4) Where a trolley locomotive is used for the transportation of explosives in a mine, the car or cars carrying explosives shall be protected from trolley-wire contact and other existing hazards. 1957, c. 71, s. 12, *part*.

**234.** Where parties working contiguous or adjacent claims or mines disagree as to the time of setting off blasts, either party may appeal to an engineer, who shall decide upon the time at which blasting operations thereon may be performed, and his decision is final and conclusive and shall be observed by them in future blasting operations. 1957, c. 71, s. 12, *part*.

Blasting on  
contiguous  
claims

**235.** No explosive shall be removed from its original paper container or cartridge. 1957, c. 71, s. 12, *part*.

Explosives  
not to be  
removed  
from original  
container

**236.** No explosive shall be used to blast or break up ore, salamander or other material where by reason of its heated condition there is any danger or risk of premature explosion of the charge. 1957, c. 71, s. 12, *part*.

Blasting of  
roast heaps

**237.** All drill holes, whether sunk by hand or machine drills, shall be of sufficient size to admit of the free insertion to the bottom of the hole of a stick or cartridge of powder, dynamite or other explosive, without ramming, pounding or pressure. 1957, c. 71, s. 12, *part*.

Size of  
drill holes

**238.** In charging holes for blasting, no iron or steel tool or rod shall be used, and no iron or steel tool shall be used in any hole containing explosives. 1957, c. 71, s. 12, *part*.

No iron or  
steel tool

**239.**—(1) Before drilling is commenced in a working place, the exposed face shall be washed with water and carefully examined for misfires and cut-off holes, giving special attention to old bottoms.

Procedure  
before  
drilling

(2) No drilling shall be done within six inches of any hole that has been charged and blasted or any remnant of such hole.

Bootleg  
holes

(3) No drilling shall be done within five feet of any hole containing explosives. 1957, c. 71, s. 12, *part*.

Hole  
containing  
explosives

**240.**—(1) Every workman shall, before blasting, give or cause to be given due warning in every direction by shouting "Fire" and shall satisfy himself that all persons have left the working place or the vicinity except those required to assist him in blasting and guarding.

Due warning  
required

(2) In open pits or quarries where the extent of the operation or the exposure of persons renders the warning required under subsection 1 ineffective, due warning shall be given of a primary blast by siren or its equivalent in an approved manner, in addition to guarding as required by section 241. 1957, c. 71, s. 12, *part*; 1959, c. 60, s. 11 (1).

In pits  
and quarries

Guarding  
entrances  
where blast-  
ing is done

**241.**—(1) Every workman shall, before blasting, cause all entrances or approaches to the place or places where the blasting is to be done, or where the safety of persons may be endangered by the blasting, to be effectively guarded so as to prevent inadvertent access to such place or places while the charges are being blasted.

Guarding  
roads

(2) Subject to permission having been obtained, when required, from the appropriate authority, where it is necessary to stop traffic on a public road during a blasting operation, an adequate number of flagmen equipped with suitable red flags shall be posted and signs such as "DANGER", "BLASTING" or "STOP FOR FLAGMAN" shall be posted along the road at suitable locations to warn traffic approaching the flagman guarding the area.

Signs not  
adequate

(3) Posting of signs shall not be deemed to be adequate protection to warn of blasting operations. 1957, c. 72, s. 12, *part*; 1959, c. 60, s. 11 (2).

Breaking  
through  
to mine  
workings

**242.** Where possible, no connection between mine workings shall be made until a thorough examination of the working towards which the active heading is advancing has been made and has shown that the work can be proceeded with in a safe manner, and such point of connection shall be guarded as an entry when blasting within twice the length of the longest drill steel used or a minimum of fifteen feet of breaking through. 1957, c. 71, s. 12, *part*.

Length of  
fuse

**243.** Except where fired electrically, no fuse shorter than three feet shall be used in any blasting operation, nor shall any fuse be lighted at a point closer than three feet from the capped end. 1957, c. 71, s. 12, *part*.

Interval  
before return  
to scene of  
blast

**244.**—(1) Where safety fuse has been used in connection with a blast and where two or more shots are fired, no blaster or other person shall leave or be permitted to leave his place of refuge from the blast and return to the scene of the blast within the number of minutes that are equal to twice the number of feet in the longest fuse used in the blasting operation.

Idem

(2) This time shall be calculated from the time when the last shot is heard.

Firing done  
electrically

(3) Where the firing has been done by means of electric delay-action detonators and any shot has been heard, no blaster or other person shall leave or be permitted to leave his place of refuge and return to the scene of any blast within ten minutes of the time at which the blasting circuit is closed.



(4) In the case of a supposed misfire or missed hole in a <sup>Misfire or missed hole</sup> blasting operation, no blaster or other person shall leave or be permitted to leave his place of refuge and return to the scene of the blast within thirty minutes of the time he has reached his place of refuge after the lighting of the fuse or fuses or the closing of the blasting circuit.

(5) Except when no shot is heard and a faulty circuit is <sup>Idem</sup> indicated, the circuit may be repaired immediately after the blaster has assured himself that the blasting switch is locked in the open position and the lead wires are short-circuited. 1957, c. 71, s. 12, *part.*

**245.** No hole shall be charged with explosives unless a <sup>Detonator required</sup> properly prepared detonating agent is placed in the charge and shall be fired in its proper sequence in the firing of the round. 1957, c. 71, s. 12, *part.*

**246.—**(1) All holes that are charged with explosives in one <sup>Firing required</sup> loading operation shall be fired in one blasting operation.

(2) Any hole that has been charged with explosives, or any <sup>Idem</sup> explosive charge that has been set, shall not be left unfired but shall be fired at the time for blasting required by the approved practice of the mine. 1957, c. 71, s. 12, *part.*

**247.** Where safety fuse is used in a blasting operation, <sup>Safety fuse</sup>

(a) suitably capped fuses shall be supplied to the workmen in uniform, standard and safe lengths for the operation at hand;

(b) the uncapped ends of all fuses for use in a mine shall be suitably identified. 1957, c. 71, s. 12, *part.*

**248.—**(1) In every case where more than one charge is to <sup>Lighting fuses</sup> be fired, each fuse connected to a charge of explosives shall be lighted with a suitably timed spitting device.

(2) Where more than one charge is to be fired, no workman <sup>Number of men, lights</sup> shall be permitted to conduct any blasting operation unless he is accompanied by one or more other workmen.

(3) Each workman shall carry a light unless the blasting <sup>Idem</sup> operation is conducted on surface in daylight or under artificial light. 1957, c. 71, s. 12, *part.*

**249.** Before returning to the scene of a blasting operation, <sup>Ventilation of working places after blasting</sup> every workman shall assure himself that sufficient air has been introduced into the working place to drive out or dilute to a safe degree the gases produced in the blasting operation. 1957, c. 71, s. 12, *part.*

Protection of  
entrance to  
working  
place

**250.**—(1) Where blasting is done in a raise or stope, proper precautions shall be taken to prevent closing of the means of entrance to the working place or interference with the effective circulation of air following the blast by the broken material produced by the blast.

Idem

(2) In the case of a single-compartment raise or box-hole where material from the blast may block the means of entrance, proper precautions shall be taken to assure the adequate ventilation of the working place before workmen enter it. 1957, c. 71, s. 12, *part.*

Reporting  
of missed  
holes

**251.**—(1) When a workman fires any charges, he shall, where possible, count the number of shots.

Idem

(2) If a shot is missing, he shall report it to the mine captain or shift boss.

Idem

(3) If a missed hole has not been fired at the end of a shift, that fact, together with the location of the hole, shall be reported by the mine captain or shift boss to the mine captain or shift boss in charge of the next relay of workmen going into that working place before work is commenced by them.

Missed hole  
to be blasted

(4) Any charge that has missed fire shall not be withdrawn but shall be blasted at a proper time and without undue delay.

Examination  
of missed or  
cut-off hole

(5) No development heading shall be abandoned or work therein discontinued until the material broken at the firing of the last round has been cleared from the face and the whole face of the heading examined for explosives in missed or cut-off holes. 1957, c. 71, s. 12, *part.*

Where  
electric  
blasting  
required

**252.**—(1) After the first ten feet of advance has been made in a shaft or winze and until such time as the permanent timbers and ladders have reached the level upon which blasting is being done, all blasting in the shaft, winze, station or other workings being driven therefrom shall be done by means of an electric current.

In raises  
over 50°

(2) In any raise, inclined at over 50 degrees from the horizontal, after twenty-five feet of advance has been made, or in any raise where free escape is not assured at all times, all blasting shall be done by means of an electric current. 1957, c. 71, s. 12, *part.*

Electric  
current to be  
disconnected  
after  
blasting

**253.** Where blasting is done by electricity, a workman shall not enter or allow other persons to enter the place where the charges have been fired until he has disconnected and short-circuited the firing cables or wires from the blasting machine or portable direct-current battery or has assured himself that the switch of the approved blasting switch is open, the firing cables or wires short-circuited and the blasting box locked. 1957, c. 71, s. 12, *part.*

**254.** Unless permission in writing is first obtained from the chief engineer, with approval of the proposed arrangements necessary for special cases, <sup>Approved firing device</sup>

- (a) where electricity from lighting or power cables is used for firing charges, a fixed device of a design certified by the electrical engineer of mines as meeting the requirements of section 553 shall be used;
- (b) one such device shall be maintained for each individual working place in which firing is done by means of electricity from lighting or power cables. 1957, c. 71, s. 12, *part*.

**255.** Where the source of current is a portable direct-current battery or a blasting machine, the firing cables or wires shall not be connected to the source of current until immediately before they are required for firing the charges and shall be disconnected immediately after the connection has been made or the machine operated for firing the charges. 1957, c. 71, s. 12, *part*. <sup>Blasting by direct-current or blasting machine</sup>

**256.**—(1) The firing cables leading to the face shall be short-circuited while the leads from the blasting caps are being connected to each other and to the firing cables. <sup>Lead wires short-circuited</sup>

(2) The short-circuit shall not be removed until the men have retreated from the face and it shall be so located that a premature explosion would be harmless to the men opening the short-circuit. <sup>Idem</sup>

(3) The short-circuit shall be replaced immediately after the cables have been disconnected from the blasting machine or the blasting switch has been opened. 1957, c. 71, s. 12, *part*. <sup>Idem</sup>

**257.**—(1) The firing cables or wires used for firing charges at one working place shall not be used for firing charges in another working place until all proper precautions have been taken to ensure that such firing cables or wires have not any connection with the leads from the first working place. <sup>Firing cables</sup>

(2) When firing cables or wires are used in the vicinity of power and lighting cables, the blaster shall take proper precautions to prevent the firing cables or wires coming in contact with the lighting or power cables. 1957, c. 71, s. 12, *part*. <sup>Precautions in using firing cables</sup>

*Protection in Working Places, Shafts,  
Winzes, Raises, etc.*

**258.** Neither on surface nor underground shall workmen be employed in a location where men are working overhead unless such measures for protection are taken as the nature of the work permits. 1957, c. 71, s. 12, *part*. <sup>Protection from overhead operations</sup>



Protective  
hat

**259.** A protective hat, manufactured for such service, shall be worn by every person employed,

(a) underground in a mine;

(b) in a location in a pit or quarry designated by an engineer. 1957, c. 71, s. 12, *part.*

Fencing of  
shafts and  
other  
openings

**260.** The top of every shaft shall be securely fenced or protected by a gate or guard rail, and every pit or opening dangerous by reason of its depth shall be securely fenced or otherwise protected. 1957, c. 71, s. 12, *part.*

Gate at  
shaft  
entrances

**261.**—(1) At all shaft and winze openings on the surface and on every level, unless securely closed off, the hoisting compartments shall be protected by a substantial gate which shall be kept closed except when the hoisting conveyance is being loaded or unloaded at such level.

Idem

(2) The clearance beneath any such gate shall be kept to a minimum.

Reinforcing  
of gate

(3) Where haulage tracks lead up to a hoisting compartment on surface or underground, the gate on such compartment shall be reinforced in such a manner that it is sufficiently strong to withstand any impact imparted thereto by collision therewith of any motor, train or car operated on such tracks. 1957, c. 71, s. 12, *part.*

Shaft and  
winze  
timbering

**262.**—(1) Every shaft and winze shall be securely cased, lined or timbered and during sinking operations the casing, lining or timbering shall be maintained within a safe distance of the bottom.

Idem

(2) In no instance shall such distance exceed fifty feet.

Strength of  
guides, etc.

(3) The guides, guide attachments and shaft casing, lining or timbering, shall be of sufficient strength and shall be suitably designed, installed and maintained so that the safety catches referred to in section 339 may grip the guides properly at any point in the shaft. 1957, c. 71, s. 12, *part.*

Protection  
at shaft  
stations

**263.** There shall be provided a safe passageway and standing room for workmen outside the shaft at all workings opening into the shaft and the manway shall in all cases be directly connected with such openings. 1957, c. 71, s. 12, *part.*

Protection  
in sinking  
operations

**264.** During shaft sinking operations, no work shall be done in any place in a shaft or winze while men are working in another part of the shaft or winze below such place unless the

men working in the lower position are protected from the danger of falling material by a securely constructed covering extending over a sufficient portion of the shaft to afford complete protection. 1957, c. 71, s. 12, *part*.

**265.** Open hooks shall not be used in conjunction with the suspension of any shaft staging. 1957, c. 71, s. 12, *part*. Open hooks not to be used

**266.**—(1) Except during sinking operations, if material is handled in a shaft or winze compartment, there shall be maintained around that compartment, except on the side on which material is to be loaded or unloaded, a substantial partition at the collar and at all levels. Lining compartments at levels

(2) Such partition shall extend above the collar and all levels a distance not less than the height of the hoisting conveyance plus six feet and it shall extend below the collar and all levels at least six feet and it shall conform to the size of the conveyance allowing for necessary clearances. 1957, c. 71, s. 12, *part*. Idem

**267.** Wherever a counterweight is used in a shaft or winze, it shall be safely enclosed, unless it travels on guides. 1957, c. 71, s. 12, *part*. Counterweight compartment

**268.**—(1) No person shall do any work or conduct any examination in a compartment of a shaft or winze or in that part of the headframe used in conjunction therewith while hoisting operations other than those necessary for doing such work or conducting such examination are in progress in such compartment. Protection on shaft inspection

(2) No person shall do any work or conduct any examination in a shaft or winze or in that part of a headframe used in conjunction therewith unless he is adequately protected from accidental contact with any moving hoisting conveyance or the danger of falling objects accidentally dislodged. 1957, c. 71, s. 12, *part*. Idem

**269.** Where the enclosing rocks are not safe, every adit, tunnel, stope or other working in which work is being carried on or through which persons pass shall be securely cased, lined or timbered, or otherwise made secure. 1957, c. 71, s. 12, *part*. Timbering mine workings

**270.** Where a bucket is used in a shaft or winze for other than sinking purposes, Use of shaft buckets

(a) a set of doors as required by subsection 3 of section 311 shall be required at the collar and every point of service of the shaft or winze;

- (b) a suitable landing device shall be used at every working level when the bucket is being loaded or unloaded at that level;
- (c) simultaneous operations shall not be carried on at more than one level until the style of structure and method of operation of any such device installed at intermediate levels have been submitted to and have received the approval of an engineer. 1957, c. 71, s. 12, *part*.

Steeply in-  
clined raises

**271.**—(1) All raises inclined at over 50 degrees from the horizontal that are to be driven more than sixty feet slope distance shall be divided into at least two compartments, one of which shall be maintained as a ladderway and shall be equipped with suitable ladders.

Idem

(2) The timbering shall be maintained within a safe distance of the face and in no event shall the distance between the face and the top of the timbering exceed twenty-five feet. 1957, c. 71, s. 12, *part*.

Precautions  
as to broken  
material

**272.**—(1) Whenever, at any time, chutes are pulled where persons are working or may enter at the time of pulling, the pulling area shall be marked by signs or the persons working in the vicinity shall be notified and as pulling proceeds proper precautions shall be taken to ascertain that the broken material is settling freely.

Idem

(2) When there is any indication of a hang-up, the location shall be adequately protected by suitable signs or barricades. 1957, c. 71, s. 12, *part*.

Access to  
stopes

**273.** Unless the entrance to a stope is capable of being used as such at all times, a second means of entrance shall be provided and maintained. 1957, c. 71, s. 12, *part*.

Guarding  
mill holes,  
manways,  
etc.

**274.** The top of every mill hole, manway or other opening shall be kept covered or otherwise adequately protected. 1957, c. 71, s. 12, *part*.

Guarding  
open  
workings

**275.** Wherever men are working below a level in a place the top of which is open to the level in close proximity to a haulageway or travelway, some person shall effectively guard the opening unless it is securely covered over or otherwise closed off from the haulageway or travelway. 1957, c. 71, s. 12, *part*.

Guarding  
tops of raises

**276.** The tops of all raises or other openings to a level shall be kept securely covered, fenced off or protected by



suitable barricades to prevent inadvertent access thereto. 1957, c. 71, s. 12, *part*.

**277.** Utility hoists and attached equipment used for the raising and lowering of material shall be maintained in a safe working condition. 1957, c. 71, s. 12, *part*. Care of utility hoists

**278.** The owner or manager shall provide and maintain an adequate supply of properly dressed scaling bars and gads and other equipment necessary for scaling. 1957, c. 71, s. 12, *part*. Scaling bars and gads

**279.** The owner or manager shall, when necessary, provide life lines for the workmen and it is the duty of the workmen to wear such life lines at all times, when by so doing the interests of safety will be advanced. 1957, c. 71, s. 12, *part*. Life lines to be used

**280.** Every dusty place where work is being carried on in a mine shall be adequately supplied at all times with clean water under pressure or other approved appliances for laying the dust caused by drilling or blasting operations. 1957, c. 71, s. 12, *part*. Keeping water supply to lay dust

**281.** The times for blasting shall be so fixed that the workmen shall be exposed as little as practicable to dust and smoke. 1957, c. 71, s. 12, *part*. Time for blasting

**282.—(1)** Where there is non-continuous shift operation in mine areas, the on-coming shift shall be warned of any abnormal condition affecting the safety of operations. Written record

(2) Such warning shall consist of a written record over the signature of a responsible person on the off-going shift and shall be read and countersigned by the corresponding responsible person on the on-coming shift before workmen are permitted to resume operations in the areas indicated in such record. 1957, c. 71, s. 12, *part*. Idem

**283.** At every mine where persons are employed underground, a suitable system shall be established and maintained to check in persons who have gone underground and check out persons who have returned to surface, and it is the duty of such persons to check in and check out in accordance with such system. 1957, c. 71, s. 12, *part*. Check-in, check-out systems

**284.** Where repair work is in progress in a manway or conditions arise that may endanger travel through the manway, it shall be closed off or adequate signs designating its unfitness for travel purposes shall be posted at all entrances to it. 1957, c. 71, s. 12, *part*. Signs designating repair work

Diamond-drill holes

**285.**—(1) Diamond-drill holes shall be plotted on all working plans of levels.

Guarded while blasting near

(2) When an active mine heading is advancing toward a diamond-drill hole, the collar or the nearest points of intersection of the hole or both shall be securely closed off or guarded at all times that blasting is being done within fifteen feet of any possible intersection of the hole.

Marked

(3) The collar and any points of intersection of every diamond-drill hole shall be plainly marked at the time that drilling is discontinued or an intersection made.

Idem, with letter "H"

(4) Such markings shall consist of a single capital letter "H" in yellow paint measuring twelve inches by twelve inches that shall be placed within four feet of the collar or intersection. 1957, c. 71, s. 12, *part*.

Tailings used for fill

**286.** Where tailings are used for filling worked-out areas underground, the moisture contained in the tailings and the liquid draining off therefrom shall not have a higher cyanide content than .005% expressed as cyanide of potassium. 1957, c. 71, s. 12, *part*.

### *Examination of Mine Workings and Shaft Inspection*

Examination of mine workings

**287.** The owner or manager of a mine or some authorized person or persons shall examine daily all parts where drilling and blasting are being carried on, shall examine at least once a week the other parts in which operations are being carried on, such as shafts, winzes, levels, stopes, drifts, crosscuts and raises, in order to ascertain that they are in a safe working condition and shall inspect and scale or cause to be inspected and scaled the roofs and walls of all stopes or other working places as often as the nature of the ground and of the work performed necessitates. 1957, c. 71, s. 12, *part*.

Shaft inspection

**288.**—(1) The owner or manager of a mine where a hoist is in use shall depute some competent person or persons whose duty it is to make an inspection of the shaft at least once each week, and in addition a thorough examination shall be made at least once each month of the guides, timber, walls and hoisting compartments generally of the shaft and a record of such inspection and examination shall be made in the Shaft Inspection Record Book by the person making the examination.

Shaft Inspection Record Book

(2) Such owner or manager shall keep or cause to be kept at the mine a book for each shaft termed the Shaft Inspection Record Book in which shall be recorded a report of every such

examination as is referred to in this section signed by the person making the examination.

(3) Such entries of examinations shall be read and initialled every week by the person in charge of the maintenance of the shaft. Entries to be initialled

(4) A notation shall be made of any dangerous condition reported and the action taken regarding it over the signature of the person in charge of the maintenance of the shaft. Dangerous conditions noted

(5) The Shaft Inspection Record Book shall be made available to an engineer at all times. 1957, c. 71, s. 12, *part*. Available to engineer

### *Ladderways and Ladders*

**289.**—(1) A suitable footway or ladderway shall be provided in every shaft and winze. Ladderways in shafts and winzes

(2) In shafts and winzes, no ladder, except an auxiliary ladder used in sinking operations, shall be installed in a vertical position. Not in vertical position

(3) During sinking operations, if a ladder is not maintained to the bottom, an auxiliary ladder that will reach from the permanent ladders to the bottom shall be provided in such convenient position that it may be promptly lowered to any point at which men are working. Sinking operations

(4) Wherever, about shafts and winzes and headframes used in conjunction therewith, it is necessary for persons to examine or inspect appliances installed therein, suitable ladderways or stairways and platforms shall be maintained to permit such work to be carried out in a safe manner. 1957, c. 71, s. 12, *part*. Headframes

**290.** The footway or ladderway in a shaft or winze shall be separated from the compartment or division of the shaft or winze in which material, conveyance or counterweight is hoisted by a suitable and tightly closed partition in the location required by section 266 and similarly in the remaining shaft sections or by metal of suitable weight and mesh. 1957, c. 71, s. 12, *part*. Partition between manway and hoisting compartments

**291.**—(1) In a shaft or winze inclined at over 70 degrees from the horizontal or in a headframe used in conjunction with the shaft or winze, substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway and shall be covered, except for an opening large enough to permit the passage of a man's body, and the ladders shall be so placed as to cover this opening in the platform. Ladderway in shaft, over 70°



under 70°

(2) In a shaft or winze inclined at less than 70 degrees from the horizontal or in a headframe used in conjunction with the shaft or winze, the ladders may be continuous, but substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway and shall be covered, except for an opening large enough to permit the passage of a man's body. 1957, c. 71, s. 12, *part*.

When  
stairway  
permissible

**292.**—(1) Stairways may be used in a shaft or winze inclined at less than 50 degrees from the horizontal.

Hand-rail

(2) All stairways in shafts and winzes shall be equipped with a suitably placed hand-rail. 1957, c. 71, s. 12, *part*.

Ladderways,  
other mine  
workings

**293.**—(1) All ladderways in raises, stopes and other man-ways shall be installed and maintained in a workmanlike manner to reduce to a minimum the hazard of a man falling therefrom.

Landing  
platforms

(2) A landing platform shall be installed at all points where ladders are off-set. 1957, c. 71, s. 12, *part*.

Wire rope  
ladders

**294.** Wire rope or strands of wire rope shall not be used or be allowed to be used for climbing purposes if they are frayed or have projecting broken wires. 1957, c. 71, s. 12, *part*.

Hand-rails  
for ladders

**295.** Every ladder shall project at least three feet above its platform, except where strong hand-rails are provided. 1957, c. 71, s. 12, *part*.

Ladders

**296.**—(1) Every ladder shall be of strong construction, shall be securely placed and shall be maintained in good repair.

Distance,  
between  
rungs

(2) The distance between centres of rungs of ladders shall not be greater than twelve inches or less than ten inches and the spacing of rungs shall not vary more than one-half inch in any ladderway.

from wall

(3) In order to give a proper foothold, the rungs shall in no case be closer than four inches from the wall of a shaft, winze, or raise, or any timber underneath the ladder. 1957, c. 71, s. 12, *part*.

### *Haulage*

Warning  
equipment

**297.**—(1) Every locomotive, engine, trolley or motor vehicle used above or below ground shall be equipped with a suitable audible signal that shall be maintained in proper working condition.

(2) Except when used in adequately lighted buildings or areas, every locomotive, engine, trolley or motor vehicle used above or below ground shall be equipped with a headlight or headlights that shall be maintained in proper working condition, and motor vehicles used for trackless haulage shall be equipped with a suitable tail-light or tail-lights that shall be maintained in proper working condition. Headlight and tail-light

(3) Every self-propelled unit of trackless haulage equipment used below ground shall be equipped with suitable lights or reflectors that show in the direction of travel the width of the vehicle. 1959, c. 60, s. 11 (3). Lights to show width of vehicle

**298.** Control levers of storage battery and trolley locomotives shall be so arranged that the lever cannot accidentally be removed when the power is on. 1957, c. 71, s. 12, *part*. Control levers

**299.**—(1) The audible signal on a locomotive, engine, trolley or motor vehicle when used underground or in an enclosed building shall be sounded when the vehicle starts to move and at such other times as warning of danger is required. 1959, c. 60, s. 11 (4). Warning equipment to be used

(2) In mechanical haulage underground, a suitable tail-light shall be used in conjunction with made-up trains. Tail-lights on trains

(3) The locomotive operating platform shall be provided with a suitable seat and an adequate guard for the protection of the motorman. 1957, c. 71, s. 12, *part*. Guard to protect motorman

**300.**—(1) In mechanical haulage in any level, drift or tunnel in or about a mine, no unauthorized person shall ride on any vehicle. Riding on vehicles

(2) Special trips for persons only shall be made on approved vehicles. 1959, c. 60, s. 11 (5). Idem

**301.**—(1) On every level on which mechanical track haulage is employed, a clearance of at least eighteen inches shall be maintained between the sides of the level and the cars or locomotive, or there shall be a clearance of twenty-four inches on one side, or safety stations shall be cut every 100 feet. Clearance and safety stations

(2) Such safety stations shall be plainly marked. Shall be marked

(3) On every level on which mechanical trackless haulage equipment is employed, a minimum total clearance of five feet shall be maintained between the sides of the haulageway or workings and the mechanical equipment. 1957, c. 71, s. 12, *part*. Clearance for trackless haulage

Idem, plus  
pedestrian  
travel

(4) On every level regularly used both for pedestrian traffic and trackless haulage where there is a total minimum clearance of less than seven feet, safety stations shall be cut at intervals not exceeding 100 feet and they shall be plainly marked.

Travelways  
clear of  
obstructions

(5) All regular travelways shall be maintained clear of debris or obstructions that are likely to interfere with safe travel. 1959, c. 60, s. 11 (6).

Unattended  
locomotive  
or trackless  
equipment

**302.** No haulage locomotive or trackless haulage equipment shall be left unattended, unless the controls have been placed in the neutral position and the brakes have been set. 1957, c. 71, s. 12, *part*.

### *Shaft Hoisting Practice*

Hoisting by  
push-button  
automatic  
control

**303.** The hoisting of men or material in mine shafts by push-button automatic control is subject to the approval of the chief engineer. 1957, c. 71, s. 12, *part*.

Raising and  
lowering  
material

**304.**—(1) Where steel, timber or other material is being raised or lowered in a shaft conveyance, it shall be loaded in such a manner as to prevent it from shifting its position, and, if necessary, it shall be secured to the conveyance.

Long  
material  
properly  
secured

(2) When such material projects above the sides of the conveyance, it shall be securely fastened to the conveyance or lashed to the hoisting rope in such a manner as not to damage the rope. 1957, c. 71, s. 12, *part*.

Compartment to be  
lined where  
crosshead  
not used

**305.** Where a crosshead is not used in a vertical shaft or winze, the compartment in which the bucket works shall be closely lined with sized lumber. 1957, c. 71, s. 12, *part*.

Level of load  
in bucket  
or skip

**306.** In the course of sinking a shaft or winze, the bucket or skip shall be filled only in such a manner that no piece of loose rock projects above the level of the brim. 1957, c. 71, s. 12, *part*.

Hoisting  
men in  
buckets

**307.** In shaft sinking operations, where the hoisting speed exceeds 1,000 feet per minute, men shall ride in the bucket above the bottom crosshead stop. 1957, c. 71, s. 12, *part*.

Lowering  
men after  
blast

**308.**—(1) During sinking operations in a shaft or winze, the bucket or skip used for returning men to the working place following a blasting operation shall not be lowered on the initial trip beyond the point where, owing to the blast, it may be unsafe to go without a careful examination, and in no case shall the point be less than fifty feet above the blasting set or bulkhead.



(2) The bucket or skip shall be lowered from such point <sup>Idem</sup> only on signal from the men accompanying it and at such speed as to be fully under control, by signal, of such men.

(3) Only sufficient men shall be carried on such a trip as are <sup>Idem</sup> required to properly conduct a careful examination of the shaft or winze. 1957, c. 71, s. 12, *part.*

**309.** In the course of sinking a shaft or winze, the bucket or skip shall not be lowered directly to the bottom but shall be held at least fifteen feet above and shall remain there until a separate signal to lower it has been given by a properly authorized person. 1957, c. 71, s. 12, *part.* <sup>Bucket or skip not to be lowered directly to face</sup>

**310.** No bucket shall be allowed to leave the top or bottom of a shaft or winze until the workman in charge of it has steadied it or caused it to be steadied. 1957, c. 71, s. 12, *part.* <sup>Bucket to be steadied</sup>

**311.—(1)** In the course of sinking a shaft or winze, adequate provision shall be made and maintained to assure the impossibility of the bucket or skip being dumped while the dumping doors are open or other means applied to prevent spillage falling into the shaft or winze. <sup>Protection from dumping</sup>

(2) The design of a device for this purpose shall be submitted for the approval of a mechanical engineer before such device is installed. <sup>Design to be approved</sup>

(3) A door or doors to cover the sinking compartments shall be maintained at the collar or other point of service of every shaft or winze while sinking is in progress. <sup>Door to cover sinking compartment</sup>

(4) Such door or doors shall be kept closed at all times that tools or material are being loaded into or unloaded from the bucket or skip at the collar or other point of service of every shaft or winze, except when the bucket or skip is unloaded by dumping arrangements as provided in subsections 1 and 2. <sup>Door closed when loading bucket</sup>

(5) The door or doors shall be closed when men are loaded or unloaded, except where a safety crosshead fills the compartment at the collar or other point of service. 1957, c. 71, s. 12, *part.* <sup>Door closed when men loaded</sup>

**312.** Except during sinking operations, whenever a mine shaft or winze exceeds 300 feet in vertical depth, a suitable cage or skip constructed as required by sections 338 and 339 shall be provided for lowering or raising men in the shaft or winze. 1957, c. 71, s. 12, *part.* <sup>Cage for handling men</sup>

**313.—(1)** No person shall travel or be permitted to travel in a cage at any time, except during shaft inspection, unless the doors of the cage are securely closed. <sup>Cage doors to be closed</sup>

Idem

(2) The cage doors shall not be opened until a full stop has been made at the point or station signalled for, except during trips of inspection, but, in the case of an inadvertent stop at a point in the shaft or winze, other than a station, the cage doors may be opened and the men may leave the cage on instructions to do so by a properly authorized person. 1957, c. 71, s. 12, *part.*

Operation  
of chairs

**314.**—(1) Where chairs are used for the purpose of landing a shaft conveyance at a point in a shaft or winze, except when hoisting in balance from that point, the chairs shall not be put into operation unless the proper chairing signal has been given to the hoistman.

Idem

(2) Chairs shall not be used when men are handled. 1957, c. 71, s. 12, *part.*

Hoisting  
men and  
materials  
simul-  
taneously

**315.**—(1) No person shall travel or be permitted to travel in a bucket, cage or skip operated by a hoist that is being simultaneously used for the hoisting of mineral or material, except as provided for in clause *c* of section 316.

Men only  
in approved  
conveyances

(2) No person shall be hoisted or lowered or permit himself to be hoisted or lowered in a shaft or other underground opening except in approved hoisting conveyances as provided for in section 316, but this prohibition does not apply where men are raised or lowered by hand by suitable means as in construction, maintenance or repair work. 1957, c. 71, s. 12, *part.*

When  
persons not  
to be hoisted

**316.** No person shall be lowered or hoisted or allow himself to be lowered or hoisted in a shaft, winze or other underground opening,

- (a) in a bucket or skip, except that men employed in shaft sinking may ascend and descend to and from the sinking deck or other place of safety and the men employed in shaft inspection and maintenance may be hoisted and lowered in the shaft by means of such conveyance;
- (b) in a cage or skip that does not meet the requirements of sections 339 and 341, except as provided for in clause *a* of this section or section 340;
- (c) in a cage, skip or bucket that is loaded with powder, steel, timber or other materials or equipment, except when the presence of such person is necessary for the purpose of handling the same;
- (d) in a cage, skip or bucket carrying powder, steel, equipment or material, unless the same is adequately

secured, but nothing in this clause prohibits men from carrying personal hand tools or equipment approved by the district engineer in a conveyance if the same are properly protected with guards and the conveyance is not overcrowded;

- (e) except during shaft-sinking operations or shaft inspection and maintenance operations, in any shaft conveyance, unless the shaft conveyance is in charge of a person properly authorized to act as cagetender or skiptender. 1957, c. 71, s. 12, *part.*

**317.** Except in the course of sinking a shaft, no person shall enter or be allowed to enter a shaft conveyance or work upon or under a shaft conveyance when the corresponding drum of the hoist is unclutched, unless the conveyance is first secured in position by chairing or blocking. 1957, c. 71, s. 12, *part.*

Use of  
conveyance  
if drum  
unclutched

**318.—(1)** In this section,

Interpre-  
tation

- (a) “authorized maximum load of men” means the total weight of men permitted by the district engineer to ride at any time in the shaft conveyance;
- (b) “maximum allowable weight” means the maximum weight permitted by this Act to be attached to the rope in service or the maximum weight attached to the rope that the hoist is capable of handling, whichever is the lesser.

(2) The weight that a hoist is capable of handling shall be that set out in the manufacturer’s specifications or approved by an independent competent mine hoist design engineer.

Weight  
specified by  
manu-  
facturer

(3) In case a hoisting rope is used for the raising and lowering of both men and materials, the weight attached to the rope in the former case, when the bucket, cage or skip is bearing its authorized maximum load of men, shall not exceed 85 per cent of the maximum allowable weight when the rope is in use for other purposes, and the owner or manager shall obtain from the district engineer of mines resident in the district a certificate in writing setting out the maximum loads of both men and materials that may be carried in the shaft conveyance before men are so carried.

Certificate  
re maximum  
loads

(4) The district engineer of mines may issue the certificate referred to in subsection 3 if he is satisfied that the hoisting installation and signalling equipment meet the requirements of this Act. 1957, c. 71, s. 12, *part.*

When  
certificate  
issued



*Conveyance Notices and Discipline*

Notice to  
be posted

**319.**—(1) A notice showing clearly the number of persons allowed to ride on and the weight of materials allowed to be loaded on the conveyance, as referred to in subsection 3 of section 318, shall be posted and maintained at the collar of the shaft or winze.

Responsi-  
bility

(2) The person authorized to give signals is responsible for observance of such notice. 1957, c. 71, s. 12, *part*.

Open lights,  
discipline

**320.**—(1) When persons are being hoisted or lowered in a cage or skip, no person, other than the cagetender or skip-tender, shall have a burning open-flame lamp of any kind, except that for shaft inspection or similar purposes a sufficient number of lighted lamps shall be permitted.

Discipline  
maintained

(2) At all times that men are being hoisted or lowered in a cage or skip, there shall be maintained a proper discipline of persons riding on that cage or skip.

Observance  
of notice

(3) No person shall offer obstruction to the enforcement of the requirements of loading of conveyances under subsection 1 of section 319 or this section. 1957, c. 71, s. 12, *part*.

*Signals*

Signal  
system

**321.** Every working shaft shall be provided with a suitable means of communicating by distinct and definite signals to the hoist room from the bottom of the shaft, from every working level, from the collar and from every landing deck. 1957, c. 71, s. 12, *part*.

Separate  
signal for  
each com-  
partment

**322.** A separate, audible signal system shall be installed for the control of each hoisting conveyance operated from a single hoist and there shall be a sufficient difference in the signals to the hoistman that they are easily distinguishable. 1957, c. 71, s. 12, *part*.

Return  
signal

**323.** Where an electrical signal system is installed, the hoistman shall return the signal to the person giving the signal when men are about to be hoisted or lowered. 1957, c. 71, s. 12, *part*.

Special  
devices,  
permission  
for

**324.** No device for signalling to or communicating with the hoistman shall be installed or operated in or on any shaft conveyance without the written permission of the chief engineer. 1957, c. 71, s. 12, *part*.

**325.** No cage call system communicating with the hoist-room shall be installed or used at a shaft or winze. 1957, <sup>Cage call system</sup>  
c. 71, s. 12, *part.*

**326.**—(1) The following code of signals shall be used at <sup>Code of signals</sup>  
every mine and a copy of such code shall be printed and kept posted in every hoist room and at every level or other recognized landing place in every working shaft or winze:

1 bell . . . Stop immediately—if in motion (Executive Signal).

1 bell . . . Hoist (Executive Signal).

2 bells . . . Lower (Executive Signal).

3 bells . . . Men travelling in hoisting conveyance (Cautionary Signal). This signal shall be given by the conveyance tender at all levels before any person, including the conveyance tender, is permitted to enter or leave the conveyance. Where a stop exceeds one minute, the 3-bell signal shall precede the next destination signal. Where a return-bell signal system is installed, the hoistman shall return the 3-bell signal before any person is permitted to enter or leave the conveyance.

4 bells . . . Blasting Signal. The hoistman shall answer by raising the bucket, cage or skip a few feet and letting it back slowly. Following a 4-bell signal only a 1-bell signal shall be required to signal for hoisting men away from a blast and the hoistman shall remain at the controls until the act of hoisting has been completed.

5 bells . . . Release Signal. The hoistman may act at his own discretion to perform any movement, or series of movements, involving the conveyance or conveyances designated by the destination signals referred to in section 327. Where a return-signal system is installed, the hoistman shall return the signals and may then act at his own discretion. On the completion of the necessary movements, he shall not move the hoist again until he has received a new signal.

9 bells . . . Danger Signal (Special Cautionary). To be given only in case of fire or other danger. The signal for the level at which the danger exists should be given following the giving of the danger signal.

Method and  
order of  
signals

(2) The following method and order shall be observed in giving signals:

1. Strokes on the bell shall be made at regular intervals.
2. Signals shall be given in the following order: 1st, Cautionary Signals; 2nd, Destination Signals; 3rd, Executive Signals. 1957, c. 71, s. 12, *part*.

Special  
signals

**327.**—(1) At every mine, other signals, termed destination signals, in conjunction with the code referred to in subsection 1 of section 326 shall be used to designate all regular stopping points.

Signals for  
movements

(2) Special signals shall be used to designate all special hoisting movements.

Standard  
mine  
signal code

(3) All such signals shall be easily distinguishable from the foregoing code and shall not interfere with it in any way and shall follow the Department's standard mine signal code and any deviation therefrom shall be approved by the chief engineer.

Destination  
signals

(4) Such destination signals and other special signals approved for use at every mine and an adequate description of their application to the movements required shall be posted at every hoist, at the top of the shaft or winze and at every working level of the shaft or winze. 1957, c. 71, s. 12, *part*.

Hoistman  
shall not  
move con-  
veyance

**328.**—(1) The hoistman shall not move the hoisting conveyance within a period of ten seconds after receiving a signal designating a movement at any time that men are carried.

If unable  
to move  
within one  
minute

(2) In case he is unable to act within one minute of the time he has received any complete signal, he shall not move the hoisting conveyance until he has again received another complete signal. 1957, c. 71, s. 12, *part*.

3-bell signal

**329.**—(1) After a hoistman has received a 3-bell signal, he shall remain at the hoist controls until he has received the signal designating the movement required and has completed that movement.

Idem

(2) After he has commenced the movement, he shall complete it without interruption, unless he receives a stop signal or in case of great emergency. 1957, c. 71, s. 12, *part*.

Hoistman  
to remain  
at controls

**330.** The hoistman shall remain at the hoist controls at all times the hoist is in motion, except when the hoist is operating under push-button automatic control. 1957, c. 71, s. 12, *part*.



**331.** Except in case of emergency, no one shall speak to the hoistman while the hoist is in motion, and a sign to this effect plainly visible to anyone approaching the hoist controls shall be kept posted at all times. 1957, c. 71, s. 12, *part*. Notice re talking to hoistman

**332.** Under no circumstances shall the hoisting conveyance be moved by the hoistman until he has received a proper signal, except that, in event of an inadvertent stop at some point in the shaft or winze, other than at a station from which a signal may be given, the hoistman may move the conveyance when he has assured himself that the hoist controls are in proper working order and when hoisting or lowering men he has received instructions from a properly authorized person. 1957, c. 71, s. 12, *part*. Signal required

**333.—(1)** No person, unless duly authorized, shall give any signal for moving or stopping the bucket, cage or skip. Only authorized person to give signal

(2) No unauthorized person shall give any signal, other than the danger signal, or in any way whatsoever interfere with the signalling arrangements. 1957, c. 71, s. 12, *part*. Idem

**334.** No person, unless duly authorized, shall operate any equipment for controlling the movement of the hoist or interfere with such equipment in any way. 1957, c. 71, s. 12, *part*. Only authorized person may operate hoist

**335.** No signal shall be given unless the bucket, cage or skip is at the level from which the signal is to be given. 1957, c. 71, s. 12, *part*. Position of conveyance

### *Sinking Equipment*

**336.—(1)** After a depth of 300 feet below the sheave has been attained in the sinking of a vertical shaft or winze, a suitable bucket and crosshead, as referred to in subsection 2 and in section 337, shall be used. When crosshead required

(2) When a closed type of crosshead is not used, the bucket shall be barrel-shaped and shall be suspended by the upper rim. 1957, c. 71, s. 12, *part*. Suspension. barrel-shaped bucket

**337.—(1)** All sinking crossheads shall be provided with a safety appliance of a design approved by a mechanical engineer for attaching the bucket to the crosshead, so constructed that the crosshead cannot stick in the hoisting compartment without also stopping the bucket. Safety appliance on crosshead

(2) All crossheads shall be of a design approved by an engineer. 1957, c. 71, s. 12, *part*. Crosshead to be approved

*Shaft Conveyances, Construction and Operation*

Protection  
of men  
in shaft  
conveyances

**338.**—(1) No cage or skip shall be used for the raising or lowering of persons unless it is so constructed as to prevent any part of the body of a person riding therein from accidentally coming into contact with the timbering or sides of the shaft or winze.

Permission  
necessary  
to handle  
men in skip

(2) Permission shall be obtained from the chief engineer before a skip is used for lowering or raising men in a shaft or winze, except during sinking, inspection or maintenance operations. 1957, c. 71, s. 12, *part.*

Construction  
of cages  
and skips

**339.** All cages or skips for lowering or raising men shall be constructed as follows:

1. The hood shall be made of steel plate not less than three-sixteenths of an inch in thickness or of a material of equivalent strength.
2. The cage shall be provided with sheet-iron or steel side casing not less than one-eighth of an inch in thickness or of a material of equivalent strength, and the casing shall extend to a height not less than five feet above the floor of the cage.
3. The cage shall be equipped with doors made of suitable material that extends to a height not less than five feet above the floor.
4. The doors shall be so arranged that it is impossible for the doors to open outward from the cage.
5. Doors shall be fitted with a suitable latch and shall have a minimum clearance at the bottom.
6. The safety catches and mechanism shall be of sufficient strength to hold the shaft conveyance with its maximum load at any point in the shaft and shall be of a type the design and performance of which are approved by the chief engineer.
7. Such approval shall not be considered until the safety catches and mechanism are found to function satisfactorily under load conditions during such number of tests as are required by the chief engineer, each test to consist of suddenly releasing the shaft conveyance in a suitable manner under maximum loading conditions for persons so that the safety catches will have the opportunity to grip the guides when the conveyance is descending at maximum speed.

8. A report of such tests and drawings of the safety catches and mechanism shall be sent in duplicate to the chief engineer, who may require such further information or tests as he deems necessary.
9. Before a shaft conveyance equipped with approved type safety catches and mechanism is first used for the purpose of lowering or hoisting men, the safety catches and mechanism shall be found to function efficiently according to the requirements of a mechanical engineer during a test under the same conditions as set out in paragraph 6, and a permit for the use of the conveyance for hoisting and lowering men shall be obtained from the district engineer.
10. A notation of such test shall be entered in the Hoisting Machinery Record Book and two copies of the report shall be sent to the district engineer.
11. A shaft conveyance previously permitted for use by the district engineer for the purpose of lowering or hoisting men on which alterations or repairs to the safety catch mechanism necessary to rectify any distortion of the mechanism from its proven satisfactory position are made shall not be put to such use until the safety catch and mechanism have been found to function efficiently according to the requirements of the mechanical engineer during a test made under the same conditions as set out in paragraph 6 and the district engineer has again issued permission for the use of the conveyance for such purpose.
12. A notation of such test shall be entered in the Hoisting Machinery Record Book and two copies of the report shall be sent to the district engineer. 1957, c. 71, s. 12, *part*.

**340.** The chief engineer may give permission in writing for hoisting men without safety catches if he is satisfied that the equipment and conditions are such that maximum safety is provided. 1957, c. 71, s. 12, *part*.

**341.** The cage shall not have chairs attached to it that are operated by a lever or a chain through or from the floor of the cage. 1957, c. 71, s. 12, *part*.

**342.** When chairs are used for the purpose of landing a shaft conveyance at any point in a shaft or winze, other than at the lowest point of travel for a skip, they shall be so arranged that they automatically fall clear and remain clear of



the hoisting compartment when the cage or other conveyance is lifted off. 1957, c. 71, s. 12, *part*.

Bales, safety  
latches, etc.

**343.** The bucket and any device such as the bale, safety latch or other attachment to the bucket shall be of a design approved by the chief engineer. 1957, c. 71, s. 12, *part*.

### *Hoisting Procedure*

Hoisting  
after  
stoppages

**344.**—(1) After every hoisting stoppage that is of more than two hours duration, no regular hoisting shall be done until the shaft conveyance has made one complete trip through the working part of the shaft or, where shaft repairs have been made, a return trip of the shaft conveyance has been made through and below the affected part of the shaft.

Record of  
stoppages

(2) The hoistman shall record all such stoppages and trips in the Hoistman's Log Book. 1957, c. 71, s. 12, *part*.

Auxiliary  
overwind

**345.** Where a hoist is equipped with an auxiliary overwind device for preventing men from being hoisted to the dumping position in skips or in skips of skip-cage assemblies as required in section 581, the hoistman shall place the device in operation or assure himself that it is in operation at all times that men are handled. 1957, c. 71, s. 12, *part*.

Obstructions

**346.** Where obstructions such as those referred to in clause *c* of section 575 may exist, the hoistman shall not hoist or lower the shaft conveyance without proper authority. 1957, c. 71, s. 12, *part*.

Testing  
overwind  
devices

**347.** All overwind and underwind devices shall be tested at least once during every twenty-four hours and a record of the test shall be posted immediately in the Hoistman's Log Book. 1957, c. 71, s. 12, *part*.

Brakes to  
be tested

**348.**—(1) The operator of a hoist shall, after going on shift and before a conveyance is raised or lowered, assure himself that the brake or brakes are in proper condition to hold the loads suspended on the corresponding drum or drums by testing the brakes of the drums against the normal starting power of the engine or, in the case of an electric hoist, against the normal starting current.

Drum  
not to be  
unclutched

(2) The operator of a hoist shall not unclutch a drum of the hoist until the test mentioned in subsection 1 has been made. 1957, c. 71, s. 12, *part*.

Friction  
clutches

**349.**—(1) Where a hoist is fitted with a friction clutch, the operator shall, after going on shift and before a conveyance

is raised or lowered, test the holding power of the clutch, the brake of the corresponding drum being kept on, the brake of the other drum being kept off.

(2) In case of a steam or air hoist, the test mentioned in <sup>Idem</sup> subsection 1 shall be made against the normal starting power of the engine and, in the case of an electric hoist, against the normal starting current. 1957, c. 71, s. 12, *part*.

**350.** When the drum of a hoist is unclutched, the brake <sup>Use of brake when drum unclutched</sup> of the drum shall be used only for the purpose of maintaining the drum in a stationary position, and no lowering shall be done from an unclutched drum. 1957, c. 71, s. 12, *part*.

**351.** When men are in a hoisting conveyance, the corresponding drum of the hoist shall be kept clutched in. <sup>When clutch to be kept in</sup> 1957, c. 71, s. 12, *part*.

#### *Hoistman's Log Book*

**352.**—(1) At every shaft or winze hoist, there shall be <sup>Hoistman's Log Book</sup> kept a Hoistman's Log Book in which the following shall be recorded:

1. A report of the working condition of the hoist, including the brakes, clutches, interlocking devices between the brake and clutch, depth indicators and all other devices and fittings pertaining to the safe operation of the hoist.
2. A report of the working condition of the signalling apparatus and a notation of any signals received by the hoistman, the accuracy of which he has questioned.
3. Any special instructions received involving the safety of persons, such entry to be signed by the hoistman and by the person issuing the instructions.
4. A report of the test of the overwind and underwind devices.
5. Where the required tests of the overwind and underwind devices are conducted by a hoistman operating on another shift, the hoistman assuming duty shall note over his signature that he has examined the entry in the log book of the hoistman who performed the tests.
6. A report of all abnormal circumstances in connection with the operation of the hoist or attachments thereto and such abnormal conditions as have come

to the hoistman's knowledge in connection with the hoisting operations in the shaft or winze.

7. A report of all trial trips referred to in sections 344 and 380.

**Idem** (2) A notification to the hoistman on a succeeding period of duty of any special circumstances or matter affecting the continued operation of the hoist or the safety of persons in the shaft or winze shall be made in the Hoistman's Log Book.

**Idem** (3) All such entries shall be countersigned by the hoistman assuming duty for the succeeding period.

**Idem** (4) Such entries as are required by this section shall be made and signed by every hoistman for his period of duty on a shaft or winze hoist and the time and duration of his period of duty shall also be noted and such entries as have been made during the preceding twenty-four hours shall be read and signed each day by the master mechanic or other authorized person. 1957, c. 71, s. 12, *part*.

### *Hoist Brakes*

**Brakes required** **353.**—(1) Every device used for hoisting from mine workings shall be equipped with a brake or brakes that may be applied directly to each drum so as to readily stop and hold the drum when it is carrying its maximum load.

**Arranged to test separately** (2) The brakes shall be so arranged that they can be tested separately and, whether the hoist is at work or at rest, can be easily and safely manipulated by the hoistman when at the levers controlling the hoist.

**Not operated by foot** (3) No hoist used for raising or lowering persons or for shaft sinking shall be equipped with a brake or brakes operated by means of a hoistman's foot, unless such brake is an auxiliary electrical device.

**Adjustments to be maintained** (4) The adjustments of the brake or brakes and brake mechanism shall be maintained in such condition that the brake lever or any other part of the brake mechanism will not come to the limit of travel before the normal power of the brake or brakes is applied. 1957, c. 71, s. 12, *part*.

**Brakes system on newly-acquired hoist** (5) In the installation of a newly-acquired hoist, all brake engines shall be so arranged that inadvertent or accidental loss of pressure in the brake system cannot cause the release of the brake. 1958, c. 59, s. 8 (2).

**Brakes** (6) At all times that men are in or on a shaft hoisting conveyance, the hoist shall be equipped with more than one brake, each capable of stopping and holding the drum or drums in



use, except that in shaft inspection, maintenance or sinking operations men may be in or on a shaft hoisting conveyance attached to the fixed or clutched-in drum when changing balance. 1958, c. 59, s. 8 (3).

(7) At least one of the brakes required shall be arranged for automatic operation upon operation of any of the safety devices for brake application. Automatic operation

(8) In the case of single drum air or steam driven hoists, automatic valves to control engine compression, arranged for operation by the safety devices, may serve as a brake. Single drum air or steam

(9) The arrangements mentioned in subsection 8 are subject to the approval of a mechanical engineer. 1957, c. 71, s. 12, *part*. Idem

### *Hoist Clutches*

**354.** The device for operating the clutch of the drum shall be provided with adequate means to prevent the inadvertent withdrawal or insertion of the clutch. 1957, c. 71, s. 12, *part*. Clutch locking arrangement

**355.** The brake and clutch operating gear shall be so installed that it will not be possible to unclutch a drum unless the brake or brakes on the drum are applied, nor shall it be possible to release the brake or brakes until the clutch of the drum is engaged. 1957, c. 71, s. 12, *part*. Interlocking brake and clutch

### *Hoist Drums*

**356.** Such bolts and other fittings of the drums, brakes and clutches as might be a danger in the event of their becoming loosened shall be rendered secure by means of suitable locking devices other than spring lockwashers. 1957, c. 71, s. 12, *part*. Securing of drum parts

**357.** On the drum of every hoist used for lowering or raising persons there shall be flanges and also, if the drum is conical, such other appliances as are sufficient to prevent the rope or cable from slipping off. 1957, c. 71, s. 12, *part*. Slipping of rope on drum

**358.—(1)** In all hoist installations, the dimensions of the drum or drums shall be suitable for the kind, diameter and length of the rope in service. Suitability of hoist drum for rope

(2) The diameters of the hoist drums shall be large enough to prevent the occurrence of unduly large bending stresses in the rope. Bending stresses in rope

Rope risers

(3) Where multiple-layer winding is used, proper arrangements shall be made and maintained to permit the rope to rise evenly from one layer to another and to wind properly without cutting down through any lower layer. 1957, c. 71, s. 12, *part*.

Hoist drum, specifications

**359.** On and after June 15, 1948, in all installations of newly-acquired hoists and modifications of existing hoists designed to increase the hoisting capacity of the hoist,

- (a) the drums of the hoist shall have grooving properly machined to fit the rope used, except that, in the case of shaft sinking, preliminary development operations and other operations of a temporary nature, hoists with plain drums may be used;
- (b) the drums shall have sufficient rope-carrying capacity to permit hoisting from the lowest regular hoisting point to the highest point of travel in the shaft without the necessity of winding more than three layers of rope on the drum;
- (c) the diameter of a hoist drum shall not be less than 80 times the diameter of the hoisting rope in use when the diameter of the rope is greater than one inch and shall not be less than 60 times the diameter of the rope in use when the diameter of the rope is not greater than one inch, except that, in case of shaft sinking and preliminary development operations,
  - (i) a hoist may be used having a drum whose diameter is not less than 60 times the diameter of the hoisting rope in use when the diameter of the rope is greater than one inch, and
  - (ii) a hoist may be used having a drum whose diameter is not less than 48 times the diameter of the hoisting rope in use when the diameter of the rope is not greater than one inch; and
- (d) the hoist and the head sheaves shall be so located in relation to one another as to permit the proper winding of the rope on the hoist drum. 1957, c. 71, s. 12, *part*.

*Overwinding, etc., Air and Steam Hoists*

Overwind and underwind protection for air or steam hoists

**360.** In the case of steam or air hoists, where the depth of the shaft is greater than 300 feet or the hoisting speed is greater than 350 feet per minute, or in the case of a hoist

designated by a mechanical engineer, there shall be provided suitable overwind and underwind protection for the hoisting conveyance, except that in shaft sinking, inspection and maintenance operations the underwind protection may be dispensed with. 1957, c. 71, s. 12, *part*.

**361.** At all air or steam hoists, there shall be installed within plain view of the operator a gauge to indicate the air or steam pressure. 1957, c. 71, s. 12, *part*. <sup>Gauge required</sup>

#### *Indicators*

**362.**—(1) Every hoist shall, in addition to any marks on the rope, be provided with a reliable depth indicator that will clearly and accurately show to the operator at all times, <sup>Indicator required</sup>

(a) the position of the bucket, cage or skip; and

(b) at what positions in the shaft a change of gradient necessitates a reduction in speed.

(2) Hoist depth indicators shall be driven by a reliable means. 1957, c. 71, s. 12, *part*. <sup>Operation of indicator</sup>

#### *Special Testing*

**363.**—(1) After a hoist is installed and before it is put into service, the manager shall have tests conducted to prove its compliance with this Act. <sup>Hoist acceptance test</sup>

(2) A record of these tests and the results obtained shall be kept on file and made available to an engineer. 1957, c. 71, s. 12, *part*. <sup>Record kept available</sup>

**364.** If a mechanical engineer deems it necessary, he may, after consultation with the manager, conduct or require to be conducted specific tests of the efficiency of all brakes, clutches, overwind devices or other hoist controls. 1957, c. 71, s. 12, *part*. <sup>Special testing by engineer</sup>

#### *Examination*

**365.** The owner or manager of a mine where a hoist is in use shall depute some competent person or persons whose duty it is to examine at least once in each week, <sup>Examination of hoisting equipment required</sup>

(a) sheave wheels;

(b) attachments of the hoisting ropes to the drums and to the counter-weights, buckets, cages or skips;

(c) brakes;



- (d) interlocks;
- (e) depth indicators;
- (f) buckets;
- (g) counterweights;
- (h) cages;
- (i) skips;
- (j) external parts of the hoist;
- (k) mechanical hoisting signalling equipment, if any;
- (l) shaft dumping and loading arrangements;
- (m) sinking doors and blasting sets, and any attachments thereto; and
- (n) attachments to any cage, skip or bucket for any underslung regularly-used equipment,

and to record the report of such examination in a book called the Hoisting Machinery Record Book. 1957, c. 71, s. 12, *part*.

#### *Hoist Loading*

Permissible  
hoist loading

**366.**—(1) In all new hoisting installations and modifications of existing installations, no new hoist nor any hoist that has previously been in use beyond the control of the present owner shall be used that is not accompanied by a certificate from the manufacturer giving the maximum permissible unbalanced load and the maximum permissible total rope pull of the hoist for the conditions under which the hoist is to be operated, and the hoist shall not be loaded beyond the maximum load so specified.

Approval for  
increased  
capacity

(2) No alterations designed to increase the hoisting capacity shall be made to a hoist unless approval is given by its manufacturer or an independent competent hoist design engineer. 1957, c. 71, s. 12, *part*.

#### *Hoisting Ropes*

Rope  
connection

**367.**—(1) The connection between the hoisting rope and the bucket, cage, skip, counter-balance or other device shall be of such nature that the risk of accidental disconnection is reduced to a minimum.

No open  
hooks

(2) No open-hook device shall be used for such purpose.

Approved  
connections

(3) On all new installations or proposed changes to existing installations, the method of making such connection shall be of a design approved by the chief engineer.

(4) The drum end of the rope shall be fastened to the spider <sup>Fastened to spider</sup> of the drum or around the drum shaft in some suitable manner. 1957, c. 71, s. 12, *part*.

**368.** In no case shall a rope that has been spliced be used <sup>Splicing prohibited</sup> for hoisting purposes. 1957, c. 71, s. 12, *part*.

**369.**—(1) No hoist shall be operated with less than three <sup>Length of rope required on hoist drum</sup> turns of rope on the drum when the bucket, cage or skip is at the lowest point in the shaft from which hoisting is effected.

(2) No hoist acquired after the 15th day of June, 1948, and <sup>Three layers only on drum</sup> no hoist existing on that date and modified after that date so as to increase its hoisting capacity shall be operated with more than three complete layers of rope on the drum when the conveyance is at the highest point of travel in the shaft. 1957, c. 71, s. 12, *part*.

**370.**—(1) No hoisting rope shall be used that has not been <sup>Test certificate</sup> tested by the Ontario Government Cable Testing Laboratory and for which a certificate of the test is not in the possession of the user.

(2) No hoisting rope shall be used that is not accompanied <sup>Manufacturer's certificate</sup> by a certificate from the manufacturer giving the following information:

1. Name and address of manufacturer.
2. Manufacturer's rope number.
3. Date of manufacture.
4. Diameter of rope in inches.
5. Weight per foot in pounds.
6. Number of strands.
7. Class of core.
8. Percentage of weight of lubricant in core.
9. Trade name of interior rope lubricant.
10. Number of wires in strand.
11. Grade of steel.
12. Diameter of wires in decimals of an inch.
13. Breaking stress of steel of which the wire is made in pounds per square inch.
14. Standard torsion test of wires.

15. Actual breaking load of rope as provided by subsection 1.

16. Length of rope.

Rope data  
to be entered  
in Rope  
Record Book

(3) When a rope is put on in a shaft compartment or hoisting way, the data mentioned in subsection 2 shall be entered in a book called the Rope Record Book, together with the additional following information:

1. Name of party from whom purchased.
2. Date of purchase.
3. Date put on in present location.
4. Identification number of rope.
5. Name of shaft or winze and compartment in which rope is used.
6. Weight of shaft conveyance.
7. Weight of material carried.
8. Maximum length of rope in service below sheave.
9. Maximum weight of rope in service below sheave.
10. Static factors of safety at conveyance connection and at head sheave with rope fully let out.
11. Date put on and removed from previous locations, if any.

Information  
to be sent  
to chief  
engineer

(4) Duplicate copies of such entries shall be forwarded to the chief engineer at the time the rope is put on in any location.

Rope Record  
Book

(5) The owner or manager shall keep or cause to be kept at the mine a book called the Rope Record Book, in which shall be recorded, in addition to the information referred to in subsections 2 and 3, the following information:

1. A history of the hoisting rope, outlining the date on which the rope was first put on.
2. Dates of shortening.
3. Dates and results of breaking tests.
4. Date and reason for taking off, for each occasion the rope is put into and taken out of service.

Rope Record  
Book open  
to engineer

(6) The Rope Record Book shall be kept open for inspection by an engineer at any time.

Notification  
of rope  
discarded

(7) When a hoisting rope is taken out of service from a shaft compartment, notice to that effect shall be forwarded



to the chief engineer, giving the date, the reasons for discarding or discontinuing the use of the rope, disposition of the rope, and such other information as he requires. 1957, c. 71, s. 12, *part, amended*.

**371.**—(1) No hoisting rope that has previously been in use in a place beyond the control of the owner shall be put on anew, except with the permission in writing of the chief engineer. Test of used rope required

(2) Request for permission to use such rope shall be accompanied by certification that the rope has been properly examined and that no apparent defects have been found. Request for permission

(3) Two standard test pieces, one from each end of the rope, shall also be sent to the Ontario Government Cable Testing Laboratory for test. Test pieces 1957, c. 71, s. 12, *part*.

**372.** No hoisting rope that has been removed from service at a shaft or winze compartment shall be put on anew for the purpose of raising or lowering men unless proper measures have been taken for the maintenance of the rope and the owner or manager is satisfied that the rope is in suitable working condition. Precautions, used ropes 1957, c. 71, s. 12, *part*.

**373.** When a shaft compartment has been abandoned for hoisting purposes, the hoisting rope shall immediately be removed from the shaft. Rope removal 1957, c. 71, s. 12, *part*.

**374.** No hoisting rope shall be reversed until application has been made in writing to the chief engineer, standard test pieces from each end of the rope have been submitted for test, and approval for the reversal has been received from the chief engineer. Rope not to be reversed 1957, c. 71, s. 12, *part*.

**375.**—(1) For the purpose of this section, the factor of safety of a hoisting rope in a shaft or winze means the number of times the breaking strength of the rope is greater than the total weight supported by the rope at a definite place in the rope. Factor of safety of hoisting rope

(2) The breaking strength of the rope means the breaking strength of the rope as shown in the test certificate issued by the Ontario Government Cable Testing Laboratory before the rope is installed, as required by subsection 1 of section 370. Breaking strength

(3) Every hoisting rope when newly installed on a newly-acquired hoist or on an existing hoist modified to increase the hoisting capacity of the hoist shall have a factor of safety of not less than 8.5 at the end of the rope where it is attached. Idem

to the shaft or winze conveyance and where the total weight consists of the combined weight of the conveyance plus the weight of the material hoisted.

*Idem*

(4) In addition, the hoisting rope shall have a factor of safety of not less than 5 at the point where the rope leaves the head sheave and, the rope being fully let out, the total weight consists of the combined weight of the conveyance plus the weight of the material hoisted plus the weight of that part of the rope that extends from the head sheave to the conveyance.

*Idem*

(5) Every hoisting rope when newly installed on hoists that were the property of a mine on the 15th day of June, 1948, shall have a factor of safety of not less than 6 for shafts and winzes less than 2,000 feet in depth and not less than 5 for shafts and winzes over 2,000 feet in depth at the point where the rope leaves the head sheave and, the rope being fully let out, the total weight consists of the combined weight of the conveyance plus the weight of the material hoisted plus the weight of that portion of the rope that extends from the head sheave to the conveyance. 1957, c. 71, s. 12, *part*.

Rope  
discarded

**376.** No hoisting rope shall be used in a shaft or winze when in any part of the rope,

- (a) the existing strength has decreased to less than 90 per cent of the original strength of the rope;
- (b) the extension of a test piece has decreased to less than 60 per cent of its original extension when tested to destruction;
- (c) the number of broken wires in any section of the rope equalling the length of one lay of the rope exceeds 6;
- (d) marked corrosion occurs. 1957, c. 71, s. 12, *part*.

#### *Rope Dressing*

Rope  
dressing

**377.**—(1) The rope dressing used on a hoisting rope shall be suited to the operating conditions of the rope and the dressing shall be applied at least once in every month and as often as is necessary to maintain the coating on the rope in good condition.

*Idem*

(2) Every time the rope is dressed, a report of the treatment shall be recorded in the Hoisting Machinery Record Book and signed by the person who performed the work. 1957, c. 71, s. 12, *part*.

*Rope Testing*

**378.**—(1) At least once in every six months the hoisting rope shall have a portion not less than eight feet in length cut off the lower end from a position above the clamps or other attachment. Testing of hoisting rope

(2) The length so cut shall have the ends adequately fastened with binding wire before the cut is made to prevent the disturbance of the strands and shall be sent to the Ontario Government Cable Testing Laboratory for a breaking test. Ends suitably bound

(3) The certificate of the test shall be kept on file and a summary thereof recorded in the Rope Record Book. 1957, c. 71, s. 12, *part*. Recording of test

**379.**—(1) The chief engineer may require that test specimens shall be cut from any rope discarded for use in mine hoisting at points specified by him and sent to the Ontario Government Cable Testing Laboratory for special testing and investigation if he is of the opinion that such testing and investigation is in the interest of better mine hoisting practice. Special testing of used hoisting ropes

(2) No charge shall be made for such special testing and investigation. 1957, c. 71, s. 12, *part*. No charge for testing

*Rope Attachments*

**380.**—(1) A hoisting rope when newly put on, and after any subsequent cutting thereof, shall have the connecting attachments between the bucket, cage, skip or counterweight and the connection between the drum and the rope carefully examined by some competent and reliable person or persons authorized by the owner, manager or department head, and shall not be used for ordinary transport of persons in a shaft or winze until two complete trips up and down the working parts of the shaft or winze have been made, the bucket, cage, skip or counterweight bearing its authorized load. Examination of attachments

(2) The hoistman shall make a record of such two complete trips in the Hoistman's Log Book. Record to be kept

(3) The results of the examination of the connecting attachments between the bucket, cage, skip or counterweight and hoist drum and the rope shall be recorded in the Hoisting Machinery Record Book and signed by the person making the examination. 1957, c. 71, s. 12, *part*. Results to be recorded

**381.**—(1) At the periodical cutting of the rope for test, the connection between the rope and the bucket, cage, skip or counterweight shall be thoroughly cleaned and examined. Cleaning and examination of rope connections



Idem

(2) At such time the connection between the rope and the drum shall be thoroughly cleaned and examined. 1957, c. 71, s. 12, *part.*

Counter-weight

**382.** The rope from the counterweight shall be attached to the drum of the hoist and not to the cage or skip. 1957, c. 71, s. 12, *part.*

*Examination of Ropes and Safety Appliances*

Examination of ropes and safety appliances

**383.**—(1) The owner or manager shall depute a competent person or persons who shall examine,

- (a) at least once in each day, the exterior of the rope to detect the presence of kinks or other visible damage and to note the appearance of the rope dressing;
- (b) at least once in each month, the structure of that portion of the hoisting rope that is not on the hoist drum when the conveyance is at its lowest stopping point, with a view to ascertaining the deterioration thereof, and for the purpose of this examination the rope shall be cleaned at points selected by such person or persons, who shall note any reduction in the diameter or circumference of and the proportion of wear in the rope and the starting point of the examination shall be changed slightly from month to month in order to obtain more complete information, but any portion showing appreciable reduction in diameter or circumference or appreciable wear shall be checked when the rope is again examined;
- (c) the portion of the rope that normally remains on the drum when the conveyance is at its lowest stopping point, and shall lubricate such portion, and if, during the examination of the rope, significant deterioration is found in the portion on the drum or at the cross-over points, the rope shall be shortened sufficiently to eliminate any crushed portion or to change the position of the cross-over points if either or both are necessary;
- (d) at least once in each day, the safety appliances, if any, of the conveyance, to be sure they are clean, sharp and in proper adjustment and working condition;
- (e) at least once in every three months, the safety catches of the cages or other conveyance so equipped by testing the same, such test to consist of releasing the empty conveyance suddenly in some suitable manner from rest so that the safety catches have

the opportunity to grip the guides, and in case the safety catches do not act satisfactorily, the cage or other shaft conveyance shall not be used further for raising or lowering men until the safety catches have been repaired and have been proved to act satisfactorily, as referred to in paragraph 11 of section 339.

(2) If a mechanical engineer deems it necessary, he may, <sup>Engineer may request tests</sup> after consultation with the manager, conduct or cause to be conducted specific tests of the safety catches with which a conveyance is equipped.

(3) If on examination there is discovered any weakness or defect whereby the safety or persons may be endangered, <sup>Defects to be remedied at once</sup> the weakness or defect shall be immediately reported to the owner or manager or person in charge and, until the weakness or defect is remedied, the hoisting plant shall not be used.

(4) It is the duty of the persons referred to in subsection 1 <sup>Recording of examination and reports</sup> to record the reports of all examinations therein referred to and also to record all reports referred to in subsection 3 in a book called the Hoisting Machinery Record Book. 1957, c. 71, s. 12, *part*.

#### *Head Sheaves*

**384.**—(1) Head sheaves shall be of such diameter as are suited to the rope in use and shall be machined properly to <sup>Head sheaves</sup> fit the rope.

(2) The diameter of a head sheave shall be determined by <sup>Diameter</sup> clause *c* of section 359 as required for the hoist drum. 1957, c. 71, s. 12, *part*.

#### *Hoisting Machinery Record Book*

**385.**—(1) The owner or manager shall keep or cause to be kept at the mine the Hoisting Machinery Record Book referred to in section 365, in which shall be entered a report of every examination or report referred to in sections 339 and 365, subsection 2 of section 377, subsection 3 of section 380 and sections 381 and 383, and a notation of any failure of, accident to, correction or repairs to the hoist, the hoisting rope, the shaft conveyance or any other part of the hoisting, dumping or loading equipment, signed by the person making the examination or report. <sup>Entering of reports</sup>

(2) Such entries shall be read and signed each day, week or month, as is required by this Act, by the person in charge of <sup>Entries to be signed</sup> such equipment or accessories thereto.

What to be  
entered

(3) A notation shall be made in the Hoisting Machinery Record Book of the action taken regarding the report of any failure of, accident to, corrections or repairs to the hoist, the hoisting rope, the shaft conveyance or any other part of the hoisting, dumping or loading equipment, over the signature of the person in charge of such equipment or accessories thereto.

Book to be  
available

(4) The Hoisting Machinery Record Book shall be made available to an engineer at all times. 1957, c. 71, s. 12, *part.*

### *Elevators*

Folding  
gates

**386.**—(1) Every entrance to a hoistway shall be provided with a substantial door or doors or gate or gates at least five feet six inches in height.

Idem

(2) All folding gates over three feet wide shall have top, bottom and centre braces.

Interlocks

(3) Every gate or door opening to an elevator hoistway shall be so controlled by an interlocking device that the elevator cannot be moved unless the door or gate is properly closed and that the door or gate cannot be opened unless the elevator car is in the proper position at the floor or landing place. 1957, c. 71, s. 12, *part.*

Lighting

**387.** Every hoistway landing place shall be adequately lighted. 1957, c. 71, s. 12, *part.*

Guarding  
hoistway

**388.** When a hoistway is not enclosed in walls, access to the hoistway by means of an adjacent stairway shall be prevented by means of a partition to a height of at least six feet. 1957, c. 71, s. 12, *part.*

Guide rails

**389.** All guide rails for cars and counterweights shall be of substantial construction and shall be securely fastened to the sides of the hoistway, and the bottom ends shall rest on a secure foundation and shall be firmly fixed in that position. 1957, c. 71, s. 12, *part.*

Clearance  
for car

**390.** At every elevator, other than an approved automatically-controlled passenger elevator, a clear space of not less than three feet shall be provided between the bottom of the hoistway and the lowest point of the car when the car is at its lowest landing, and between the top of the car and the sheave when the car is at its top landing, and also between the top of the counterweight and the sheave when the car is at its lowest landing. 1957, c. 71, s. 12, *part.*



**391.** Every elevator shall be provided with automatic devices at the top and bottom of the travel of a car in the hoistway, so arranged that the car will be stopped before it has travelled two feet above the top landing, or two feet below the bottom landing, and all drum hoists shall, in addition, be fitted with automatic stop motions to prevent overwinding. 1957, c. 71, s. 12, *part*. Automatic safety devices

**392.** All counterweights shall have their sections strongly bolted together, shall be so situated that they cannot fall on any part of the elevator or machinery and shall be suspended in guides in such a manner that they will run freely without danger of being detached. 1957, c. 71, s. 12, *part*. Protecting counterweights

**393.** Every elevator on which any person travels shall be provided with side casing and shall have a door or doors extending at least five feet above the bottom of the elevator, and the top shall be covered with suitable protective roofing. 1957, c. 71, s. 12, *part*. Protection on elevator

**394.**—(1) Every elevator on which any person travels shall be provided with efficient safety catches capable of holding the elevator and the maximum load in any position in the hoistway. Safety catches

(2) When the safety catches are operated through shafts, Idem all the levers and safety catches shall be keyed to the shafts. 1957, c. 71, s. 12, *part*.

**395.** For every elevator on which any person travels, other than an elevator equipped with approved controls for automatic operation, there shall be provided at every floor or landing place suitable devices to signal to the elevator car operator. 1957, c. 71, s. 12, *part*. Signalling devices

**396.**—(1) The ropes, safety devices, safety catches, signalling devices, doors, interlocks and other electrical and mechanical equipment necessary to the safe operation of elevators shall be inspected at least once each month. Inspection of elevators

(2) The records of such inspection shall be made available to an engineer. 1957, c. 71, s. 12, *part*. Records available

**397.** The manufacturer's rated capacity for the elevator shall be posted in the elevator. 1957, c. 71, s. 12, *part*. Posting capacity of elevator

**398.** No person under the age of eighteen years shall be allowed to operate an elevator other than an automatic push-button controlled elevator. 1957, c. 71, s. 12, *part*. Age, elevator operators

*Travelling Cranes*

Warning  
devices

**399.**—(1) Every crane operated from a cab mounted on the crane shall be equipped with a whistle, bell, gong or horn that shall be sounded at such times as are necessary to give warning of the approach of the crane to places where men are working or are liable to pass.

Overwind  
devices

(2) Every crane shall be equipped with suitable devices to prevent overwinding. 1957, c. 71, s. 12, *part*.

Daily  
examination  
of cranes

**400.**—(1) The owner or manager shall depute some qualified person or persons to examine daily such parts of the crane or apparatus pertaining thereto upon the proper working of which the safety of persons depends.

Record  
available

(2) A record of the examination shall be kept, signed by the person making the examination, and such record shall be available to an engineer at all times. 1957, c. 71, s. 12, *part*.

Riding  
prohibited

**401.** No person, other than the operator, shall be permitted to ride on a crane or any part thereof or on any material carried by the crane, except for inspection, supervision, maintenance and repair, or instruction of a new operator. 1957, c. 71, s. 12, *part*.

Age, crane  
operators

**402.** No person under the age of eighteen years shall be allowed to operate a power-driven crane controlled from a cab. 1957, c. 71, s. 12, *part*.

*Protection from Machinery*

Fly-wheel,  
geared-  
wheel, etc.

**403.** Every fly-wheel, geared-wheel, bull-wheel, pulley or belt, and every opening through which any wheel or belt operates, shall be enclosed with a substantial railing or casing, unless situated in such a manner or location as to prevent a person coming into accidental contact therewith. 1957, c. 71, s. 12, *part*.

Uneven  
projections  
to be  
covered

**404.** Every key, bolt, set-screw, and every part of a wheel or other revolving machinery that projects unevenly from the surface, shall be covered, unless situated in such a manner or location as to prevent a person coming into accidental contact therewith. 1957, c. 71, s. 12, *part*.

Grinding  
wheels to be  
guarded

**405.**—(1) Every power-driven grinding wheel shall be provided with a hooded guard of sufficient strength to withstand the shock of a bursting wheel.

(2) Such guard shall be adjusted close to the wheel and <sup>Idem</sup> extended forward, over the top of the wheel, to a point at least 30 degrees beyond a vertical line drawn through the centre of the wheel. 1957, c. 71, s. 12, *part.*

**406.** Persons engaged in dangerous proximity to moving <sup>Wearing</sup> machinery shall not wear or be allowed to wear loose outer <sup>loose</sup> clothing. 1957, c. 71, s. 12, *part.*

**407.** Every runway or staging more than five feet from <sup>Runway to</sup> the floor and used for oiling or other purposes shall be provided <sup>have hand-</sup> with a hand-railing. 1957, c. 71, s. 12, *part.*

**408.** Every entrance to an elevator, hatchway or well- <sup>Protection</sup> hole shall be provided with a suitable trap-door, guard-rail <sup>of entrance</sup> or automatically closing gate. 1957, c. 71, s. 12, *part.*

**409.** Every counterweight shall be so situated or guarded <sup>Counter-</sup> that injury to a person would not be probable should it <sup>weights</sup> become detached from its fastenings. 1957, c. 71, s. 12, *part.*

**410.—**(1) Every switch in a track either above or below <sup>Track</sup> ground on which cars are moved by mechanical power shall <sup>condition</sup> have the frog provided with a guard-block if its construction is not such that the hazard of a man's catching his foot in it is reduced to a minimum. 1957, c. 71, s. 12, *part.*

(2) All tracks shall be maintained in good working con- <sup>Maintenance</sup> dition. 1959, c. 60, s. 11 (7). <sup>of tracks</sup>

**411.—**(1) No person shall ride on a conveyor or belt, other <sup>Conveyors,</sup> than an escalator or man-lift approved by the chief engineer. <sup>belts</sup>

(2) The following apply to installations of underground <sup>Underground</sup> conveyor belts that exceed 100 feet in length:

1. There shall be an approved means for stopping the conveyor belt, available to any person along its course, by a device that is not capable of restarting the conveyor belt.
2. There shall be a suitable means of locking or tagging the control switch, or both, to prevent the conveyor belt from starting and any control switch that is locked shall not be a push-button switch.
3. There shall be a suitable alarm sounded before starting a conveyor belt to warn persons along its course.



4. Where conveyerways are used as regular travelways, suitable means shall be provided to protect persons from material that may fall from the belt. 1959, c. 60, s. 11 (8).

*Clay, Sand and Gravel Pits and Quarries*

- Undermining forbidden** **412.**—(1) In workings of clay, sand and gravel or other types of unconsolidated material, the method of removing material by undermining shall not be used.
- Idem** (2) No working place shall have a vertical height of more than ten feet, unless the material is at a suitable angle to ensure safety.
- Idem** (3) Where the thickness of the material exceeds ten feet in vertical depth, the work shall be done in terraces or at a suitable angle to ensure safety.
- Mechanical equipment** (4) This section does not apply where the material is excavated and loaded solely by suitable mechanical equipment that does not expose the operator of the equipment to danger or that does not necessitate workmen working in a hazardous position at the toe of the face. 1957, c. 71, s. 12, *part*.
- Height of face** **413.**—(1) Unless permission in writing is first obtained from the chief engineer, all open cut (cast) operations (workings) over sixty-five feet in depth shall be worked in benches not more than sixty-five feet high and due precautions shall be taken to maintain the walls and benches in a safe working condition and no working face shall be advanced by undercutting, except where a tunnelling method is used.
- Mechanical devices** (2) This section does not apply where men do not work below the bench or where broken material is loaded solely by suitable mechanical devices. 1957, c. 71, s. 12, *part*.
- Fencing pits and quarries** **414.** Every pit or quarry dangerous by reason of its depth shall be securely fenced or otherwise protected. 1957, c. 71, s. 12, *part*.
- Stripping overburden** **415.**—(1) In all open pit workings, all unconsolidated materials such as clay, earth, sand, gravel and loose rock lying within six feet of the rim of the pit shall be removed.
- Idem** (2) Beyond this strip all overburden shall be sloped to an angle less than its natural angle of repose. 1957, c. 71, s. 12, *part*.
- Party walls of pits and quarries** **416.**—(1) Unless the adjoining owners agree to dispense therewith, in sand, clay or gravel or other natural non-consolidated material, excavation operations shall not be carried

on within a distance from the property boundary of half the height of total pit face.

(2) Unless the adjoining owners agree to dispense therewith, <sup>Excavation restriction</sup> no excavation shall be carried on in a rock quarry within a distance of fifteen feet of the property boundary.

(3) Where there is overburden, the natural slope of the <sup>Idem</sup> overburden shall be allowed for beyond this distance from the property boundary as required under section 415. 1957, c. 71, s. 12, *part.*

**417.**—(1) No person shall be permitted to work near the pit wall until the wall has been examined by the pit foreman <sup>Examination of wall</sup> in charge of the crew.

(2) If the wall is found unsafe, he shall have all hazards <sup>Idem</sup> removed before permitting any other work. 1957, c. 71, s. 12, *part.*

**418.** Derrick guy wires shall be regularly inspected and <sup>Inspection of derrick guy wires</sup> maintained. 1957, c. 71, s. 12, *part.*

**419.**—(1) It is the duty of each man engaged in work on <sup>Life lines</sup> the wall of the pit at such operations as barring loose material, scaling and cleaning to continually wear a life line.

(2) This life line shall be securely snubbed above the work- <sup>Snubbing, etc.</sup> ing place and shall be under the supervision of a snubtender, or the line may be held taut by one or more fellow workmen. 1957, c. 71, s. 12, *part.*

**420.** No person shall be hoisted or allow himself to be <sup>Hoisting of men</sup> hoisted or lowered by means of a hoist or derrick at a pit <sup>prohibited</sup> or quarry unless permission is first obtained in writing from the chief engineer. 1957, c. 71, s. 12, *part.*

**421.** Where a load is being hoisted or lowered by means <sup>Signalman to clear area</sup> of a hoist or derrick at a pit or quarry, the signalman shall notify all persons in the vicinity to retire to a place of safety until the load has cleared the danger zone. 1957, c. 71, s. 12, *part.*

**422.**—(1) An effective block automatic derail or safety <sup>Deraill at top of incline</sup> switch shall be provided at the top of each inclined place to prevent cars accidentally running down.

(2) Such installation, however, is not required where the <sup>Exception</sup> skip or car remains on the hoisting cable. 1957, c. 71, s. 12, *part.*

Record of  
primary  
blasts

**423.** At all rock quarries a record of each primary blast, signed by the person in charge of the blast, shall be kept and the following information recorded:

1. Date, time and location of the blast.
2. Burden, spacing, depth and number of holes blasted.
3. Weight of explosive, footage of top stemming and firing delays used in respect of each hole.
4. Weight of explosives used per estimated ton broken. 1959, c. 60, s. 11 (9).

Hoisting  
signals

**424.** Unless the movement of the hoisting conveyance is visible to the hoistman at all times, a suitable signal system shall be installed and maintained and suitable signals, approved by an engineer, shall be used. 1957, c. 71, s. 12, *part*.

Travelling  
ways

**425.**—(1) At every pit or quarry there shall be provided and maintained in good working condition a suitable travelling way leading from the working level of the pit or quarry to the surface.

Idem

(2) Where the travelling way is inclined at more than 30 degrees and less than 50 degrees to the horizontal, stairways or ladders shall be provided.

Idem

(3) All stairways shall be equipped with substantial and suitably placed hand-rails.

Idem

(4) Where the travelling way is inclined at more than 50 degrees to the horizontal, ladders shall be used.

Idem

(5) Substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway and at all places where the ladders are off-set.

Idem

(6) No ladder shall be installed at an inclination of more than 70 degrees to the horizontal. 1957, c. 71, s. 12, *part*.

Safe working  
conditions  
about  
machinery

**426.** Adequate lighting, safe footing and sufficient room shall be provided for all workmen who are required to work near or about machinery. 1957, c. 71, s. 12, *part*.

#### *Crushing Plants, Mills and Metallurgical Works*

Antidotes  
and washes

**427.**—(1) At every mine or works where poisonous or dangerous compounds, solutions or gases are used or produced, there shall be kept in a conspicuous place, as near the same as practicable, a sufficient supply of satisfactory antidotes and washes for treating injuries received from such compounds, solutions or gases.



(2) Such antidotes and washes shall be properly labelled <sup>Idem</sup> and explicit directions for their use affixed to the boxes containing them. 1957, c. 71, s. 12, *part*.

**428.** In every mill or plant where, by reason of dry crush- <sup>Removal of dust</sup> ing or otherwise, there is in the air of the building dust in quantity to be injurious to health, suitable apparatus shall be installed for its removal. 1957, c. 71, s. 12, *part*.

**429.** In every mill or plant where poisonous vapours or <sup>Poisonous vapours</sup> gases exist or may be formed, suitable means shall be adopted to provide such ventilation as will prevent the formation of dangerous concentrations of the same. 1957, c. 71, s. 12, *part*.

**430.** Due provisions shall be made at all plants where <sup>Storage of acids, poisons</sup> acids or poisonous compounds are used to reduce to a minimum the hazards of storing and handling such materials. 1957, c. 71, s. 12, *part*.

**431.** The transfer of liquids from one location or container <sup>Transfer of liquids by compressed air</sup> to another location or container by the application of air under pressure shall not be permitted, except where properly designed and tested equipment is used for this purpose. 1957, c. 71, s. 12, *part*.

**432.—**(1) No person shall enter or be allowed to enter a <sup>Life lines for work in bins</sup> storage bin from which material is drawn off at the bottom while material is stored therein, unless a second person is in constant attendance and suitable precautions are taken against the danger of caving material.

(2) The owner or manager shall, when necessary, provide <sup>To be provided and worn</sup> life lines for the workmen and it is the duty of the workmen to continually wear such life lines when, by so doing, the interests of safety are advanced.

**433.** Where in the opinion of the engineer the use of <sup>Bin platforms</sup> working platforms in or at bins is advisable, they shall be provided, used and maintained in a safe working condition. 1957, c. 71, s. 12, *part*.

**434.—**(1) Guard-rails shall be placed at the approach to <sup>Guard-rails at track approaches</sup> tracks on surface where mechanical haulage is used, where the view of the tracks is obstructed in one or both directions.

(2) Where restricted clearances make the use of guard-rails <sup>When impractical</sup> impractical in the opinion of an engineer, he may permit such guard-rails to be omitted but shall require that there be installed at the track approaches a suitable type of warning

signal that will automatically give adequate audible and visible warning at all times of the approach of the conveyance, or that a switchman shall walk ahead of the leading conveyance on the track when the conveyance is in dangerous proximity to the area requiring guarding and stand guard at such approaches. 1957, c. 71, s. 12, *part*.

Shields for  
protection  
against  
burning

**435.**—(1) Workmen employed at metallurgical works shall be supplied with suitable shields and appliances to protect them as far as possible against being burned with molten metal or other material.

Use

(2) It is the duty of all workmen to use such shields and appliances. 1957, c. 71, s. 12, *part*.

Inspection  
of stock pile

**436.** Before any person or persons are allowed to work on stock piles of ore, limestone, coke or other material, the stock piles shall be inspected by some authorized person whose duty it is to see that they are in a safe working condition. 1957, c. 71, s. 12, *part*.

Scale cars

**437.** Each scale car shall be provided with an audible warning alarm that shall be sounded by the operator each time a car is started, or each car shall be equipped with an automatic mechanical warning alarm that will sound when the car is moved. 1957, c. 71, s. 12, *part*.

Examination  
of moulds,  
etc.

**438.**—(1) Every ladle or slag pot shall be examined before molten material is placed therein.

Idem

(2) Every effort shall be made to prevent molten material from coming in accidental contact with cold, damp or rusty surfaces where such contact may cause an explosion. 1957, c. 71, s. 12, *part*.

Filling of  
moulds, etc.

**439.**—(1) When molten material is transported by mechanical means in ladles or slag pots and the safety of persons may be endangered from splashing, every effort shall be made to ensure that the ladles or slag pots are not filled above a point four inches from the top of the vessel.

Idem

(2) If this limit is exceeded, the ladle or slag pot shall not be moved until the foreman or other responsible person has warned the workmen required to handle the ladle or slag pot of this condition and has warned all persons in the vicinity. 1957, c. 71, s. 12, *part*.

Side  
clearance,  
haulage

**440.** Where mechanical haulage is used on surface and the clearance between the sides of conveyances on parallel tracks or between the sides of conveyances and the side of a building

or other structure is less than eighteen inches, such location shall be plainly marked showing the danger. 1957, c. 71, s. 12, *part*.

**441.** At the approach to an overhead bridge, pipe line or <sup>Overhead clearance</sup> a similar structure on a standard-gauge railway track and the clearance is less than six feet between the top of a railway car and the underside of the structure, a "low bridge" warning device shall be installed. 1957, c. 71, s. 12, *part*.

**442.** Life lines and belts in good order shall be provided <sup>Life lines</sup> and kept in a secure and readily accessible place for immediate use in case it becomes necessary to rescue a workman from the top rigging, and also for use by a workman whose duties require him to work in an atmosphere that is liable to become dangerous by reason of the presence of noxious gases. 1957, c. 71, s. 12, *part*.

#### *Blast Furnaces*

**443.** At all furnaces of the hand-filled type, the room at <sup>Ventilation</sup> the furnace top where workmen are engaged shall be adequately ventilated and there shall be provided and maintained in good order a stairway equipped with a hand-rail from the top of the furnace to the ground level below, affording a safe means of exit in case of danger from any cause. 1957, c. 71, s. 12, *part*.

**444.** Whenever it becomes necessary for a workman to <sup>Protecting workmen</sup> go above the casting floor, he shall notify the foreman or other responsible person, who shall see that there is always a workman in attendance whose duty it is to remain outside the gaseous area and act as a watcher and give the alarm to the casthouse or stockhouse and render every possible assistance in case of gassing or other danger. 1957, c. 71, s. 12, *part*.

**445.**—(1) All bustle pipes shall be provided with safe <sup>Protection from bustle pipes</sup> working platforms equipped with hand-rails at least three feet six inches in height and, wherever practicable, the platform shall not rest directly on the bustle pipe, but shall be supported on angle bars, so that the floor plate will not become sufficiently hot to cause burns to a workman falling on it.

(2) Access to the platform shall be by a stairway provided <sup>Idem</sup> with hand-rails. 1957, c. 71, s. 12, *part*.

**446.** A suitable line of communication by telephone, gong <sup>Line of communication</sup> or other mechanical means shall be maintained between the furnace top, and all other dangerous places, and the cast-



house, skip operator's room or other place where workmen are continuously on duty. 1957, c. 71, s. 12, *part*.

Stairways  
and ladder-  
ways

**447.** A suitable ladderway or stairway shall be provided from the foundation to the top of the furnace. 1957, c. 71, s. 12, *part*.

Stairways  
protected

**448.** Unless an approved type of elevator is provided as a means of travel to the furnace top, stairways shall be installed at an angle not greater than 50 degrees from the horizontal and shall be provided with landings or turnouts at intervals of not more than twenty-five feet, measured on the slope, so that it will not be possible for a workman to fall from the top to the foundation below. 1957, c. 71, s. 12, *part*.

Supervision  
of hazardous  
work

**449.**—(1) Every foreman shall personally supervise or appoint a competent assistant to supervise any work around the furnace involving unusual accident hazard, such as work in gas mains or cleaners, tearing out linings, work in the cast-house, about the stoves when blowing in or blowing out, and any work about the bells or stock line.

Idem

(2) He shall also, when the furnace is known to be hanging and liable to slip, see that no workman is allowed on top for any purpose. 1957, c. 71, s. 12, *part*.

Protection  
around bell

**450.** When ore becomes frozen or jammed in the furnace hopper or bell and workmen are required to bar the ore into the furnace, a suitable guard-rail shall be provided to prevent workmen slipping on to the bell. 1957, c. 71, s. 12, *part*.

Rescue  
apparatus

**451.**—(1) There shall be maintained at all blast furnaces and in other metallurgical works when the atmosphere may contain dangerous concentrations of poisonous gases or vapours, in readily accessible places, breathing apparatus and portable resuscitating apparatus of approved type, with an adequate supply of material for the proper operation of the apparatus.

Trained  
personnel

(2) There shall also be on duty in each working shift one or more persons appointed by the superintendent and trained in the use of breathing and resuscitating apparatus. 1957, c. 71, s. 12, *part*.

#### *Steam, Compressed Air*

Steam  
boilers

**452.**—(1) Every steam boiler used for generating steam in or about a mine, whether separate or one of a range,

(a) shall have attached to it a proper safety-valve, and also a proper steam-gauge and water-gauge, to show

respectively the pressure of steam and the height of water in each boiler; and

- (b) shall be inspected by an Ontario Government boiler inspector or by an inspector of a boiler insurance company at least once in every twelve months, and a certified copy of the report of the inspection shall be forwarded to the chief engineer.

(2) The certificate of inspection shall be kept posted in the boiler room at all times. 1957, c. 71, s. 12, *part*. Certificate posted

**453.** Every such boiler, safety-valve, steam-gauge and water-gauge shall be maintained in proper working condition. 1957, c. 71, s. 12, *part*. Maintenance

**454.**—(1) Every air receiver installed at the surface of a mine and those installed with an air compressor underground shall be inspected by an Ontario Government boiler inspector or by an inspector of a boiler insurance company at least once in every twelve months, and a certified copy of the report of the inspection shall be forwarded to the chief engineer. Air receivers and compressors

(2) The certificate of inspection shall be kept posted in the compressor room at all times. Certificate posted

(3) All intercoolers, aftercoolers, inlet and discharge valves on stationary compressors in operation shall be examined at least once in every twelve months and shall be cleaned when necessary. Examination and maintenance

(4) A temperature-indicating device shall be installed on the high pressure discharge of each compressor. Temperature-indicating device

(5) The normal operating temperature shall be indicated by a red mark on the scale. Idem

(6) The temperature shall be recorded at least once a shift. 1957, c. 71, s. 12, *part*. Idem

(7) Subsections 3 to 6 do not apply to portable compressors, compressors discharging to atmosphere, stationary compressors of less than 300 c.f.m. capacity, banks of compressors with a total capacity of less than 300 c.f.m. discharging to a common receiver, or compressors where the cylinders are not lubricated with oil. 1958, c. 59, s. 8 (1). Exception

(8) The air receivers mentioned in subsection 1 shall be examined at least once in every twelve months and shall be cleaned when necessary. Examination of air receivers

(9) A book shall be kept in which shall be recorded the date of every examination and cleaning under subsections 3 and 8 and a note shall be made as to the condition of the appliance examined or cleaned. 1957, c. 71, s. 12, *part*. Record of examinations

## PROVISIONS GOVERNING USE OF ELECTRICITY

Interpre-  
tation**455.** In this section and in sections 456 to 608,

1. "armoured cable" means a cable provided with a wrapping, fabricated from a metal other than lead, which forms an integral part of the assembly of the cable and is designed primarily to afford mechanical protection;
2. "branch circuit" means the part of a circuit that extends beyond the final over-current devices on the circuit;
3. "circuit" means a complete conductor, loop, path, or unit current-carrying part of the system conductors, or the part of a system controlled by a switch or protected by a cut-out;
4. "circuit-breaker" means an electro-mechanical device designed to open, under both overload and short-circuit conditions, a current-carrying circuit without injury to the device;
5. "conductor" means a body so constructed from conducting material that it may be used as a carrier of electric current;
6. "contactor" means a device, operated other than by hand, for repeatedly establishing and interrupting an electric power circuit;
7. "control device" means a device that is employed for the control of circuits and electrical equipment, and includes switches, circuit-breakers and contactors, but does not include disconnectors;
8. "disconnector"—see "isolating switch";
9. "electrical equipment" means equipment, machinery, apparatus, appliances, instruments, devices, fittings or materials designed for, used in or intended to be used in the generation, transformation, transmission, distribution, supply or utilization of electrical energy;
10. "electrical supply station" means a building, room or enclosed space within which is situated electrical supply equipment and that is accessible only to authorized persons, and includes generating stations, sub-stations, generator enclosures, transformer enclosures, and other such stations or enclosures;



11. "feeder" means an electrical transmitting circuit of a system that supplies energy to sub-feeders or branch circuits at a distributing point in the system;
12. "fuse" or "fuse cut-out" means a fusible device capable of automatically opening an electric circuit under pre-determined overload conditions by the fusing of metal;
13. "general use switch" means a switch intended for use in general distribution and branch circuits that is rated in amperes and is capable of interrupting the rated current at the rated voltage;
14. "ground" means a connection to earth obtained by a ground electrode;
15. "grounded" means connected effectively with the general mass of the earth through a grounding system having current-carrying capacity sufficient at all times, under the most severe conditions that are liable to arise in practice, to prevent a current in the grounding conductor from causing a harmful voltage to exist,
  - i. between the grounded conductors and neighbouring exposed conducting surfaces that are in good contact with the earth, or
  - ii. between the grounded conductors and neighbouring surfaces of the earth itself;
16. "grounding conductor" means a path of suitable metal specially arranged as a means whereby electrical equipment is electrically connected to a ground electrode and in the case of flexible cords containing a grounding conductor, the grounding conductor may be uninsulated or, if insulated, green in colour;
17. "grounding system" means all those cables and other conductors, clamps, ground clips and ground plates or pipes by means of which the electrical installation is grounded, including the ground electrodes to which such cable and other conductors, clamps and clips are attached;
18. "ground electrode" means a buried metallic water-piping system or metal object or device buried in, or driven into, the ground (so as to make intimate contact therewith) to which a grounding-conductor is electrically and mechanically connected;
19. "guarded" means covered, shielded, fenced, enclosed or otherwise protected by means of suitable

covers, or casings, barriers, rails or screens, mats or platforms, to remove the likelihood of dangerous contact or approach by persons or objects;

20. "insulation"—Class A insulation shall give equal protection as provided by the following:

- i. cotton, silk, paper and similar organic materials when either impregnated or immersed in a liquid dielectric,
- ii. molded and laminated materials with cellulose filler, phenolic resins, and other resins of similar properties,
- iii. films and sheets of cellulose acetate and other cellulose derivatives of similar properties, and
- iv. varnishes (enamel) as applied to conductors;

Class B insulation shall give equal protection as provided by mica, asbestos, fibre glass and similar inorganic materials in built-up form with organic binding substances. A small proportion of Class A materials may be used for structural purposes only;

Class C insulation shall give equal protection as provided by mica, porcelain, glass, quartz and similar inorganic materials;

21. "isolating switch" means a switch intended for isolating either a circuit or equipment from its source of supply. It is not intended either for establishing or interrupting the load current in a circuit;
22. "magnetic contactor" means a contactor actuated by electro-magnetic means;
23. "motor-circuit switch" means a switch intended for use in a motor branch circuit. It is rated in horsepower and is capable of interrupting the maximum operating overload current of a motor of the same rating at the rated voltage;
24. "over-load device" means a device affording over-current, but not necessarily short-circuit, protection and capable of automatically opening an electric circuit either by the fusing of metal or by electro-mechanical means;
25. "switch" means a device for opening or closing or changing the connections of a circuit manually and is always to be understood as operated manually, unless otherwise stated;

26. "switchboard" means a panel or assembly of panels on which are mounted any combination of switching, measuring, control and protective devices, buses and connections, designed with a view to successfully carrying and rupturing the maximum fault current encountered when controlling incoming and outgoing feeders;
27. "utilization equipment" means equipment, devices and connected wiring that utilize electrical energy for mechanical, chemical, lighting, testing or similar purposes and are not a part of supply equipment;
28. "visible-break" means, where applied to disconnecting means, a switch or device wherein the separation between all members of the movable and the fixed current-carrying parts may be readily determined by visual inspection;
29. "voltage" or "volts" means the highest effective difference of potential between the conductors of the circuit concerned;
30. "voltage to ground" means,
  - i. in grounded circuits, the highest effective difference of potential between any wire of the circuit and ground,
  - ii. in ungrounded circuits, the highest effective difference of potential existing in the circuit;
31. "wire gauge" means the standard known as Brown and Sharpe (B. & S.). 1957, c. 71, s. 12, *part*.

#### *General Electrical Rules*

**456.**—(1) Where electrical apparatus is used at a mine, it shall be in charge of an authorized person who shall be qualified by experience to handle such apparatus. Competent person in charge

(2) Every person operating or having charge of electrical apparatus shall have been instructed in his duty and shall be competent to perform the work that he is set to do. Idem

(3) Repairs, extensions and changes to existing electrical installations shall be made only by qualified persons. 1957, c. 71, s. 12, *part*. Idem

**457.** For greater certainty and in the absence of specific provisions to the contrary, adherence to recognized electrical codes shall be accepted as good practice. 1957, c. 71, s. 12, *part*. General requirements



- Idem**                    **458.** All electrical equipment shall be of such construction and so installed and maintained as to reduce life and fire hazard as far as practicable. 1957, c. 71, s. 12, *part*.
- Identification of equipment**                    **459.** All electrical equipment shall be suitably identified where necessary for safety. 1957, c. 71, s. 12, *part*.
- Idem**                    **460.** The voltage and intended use shall be shown, where important. 1957, c. 71, s. 12, *part*.
- Inspections and repairs**                    **461.** Electrical equipment shall comply with this Act when placed in service and shall thereafter be periodically inspected and, when necessary, cleaned. 1957, c. 71, s. 12, *part*.
- Defective equipment**                    **462.**—(1) Defective equipment shall be put in good order or permanently disconnected.
- Idem**                    (2) Defective wiring shall be repaired or removed. 1957, c. 71, s. 12, *part*.
- Locking or tagging switches**                    **463.**—(1) All switches controlling apparatus shall be locked or plainly tagged in the open position to prevent the inadvertent closing thereof while work is being done on the apparatus.
- Idem**                    (2) Notices placed on electrical equipment shall be of non-conducting materials. 1957, c. 71, s. 12, *part*.
- Temporary wiring**                    **464.** Temporary wiring and equipment that is not in compliance with this Act may be used in an emergency, but only when under competent supervision or protected by suitable barriers or warning signs while it or neighbouring wiring is alive and accessible to unauthorized persons, and such temporary installations are permissible only for the period of the emergency. 1957, c. 71, s. 12, *part*.
- Fire extinguishing appliances**                    **465.**—(1) Where installed electrical apparatus presents a fire hazard, each room or space shall be provided with an adequate approved fire-extinguishing appliance, conveniently located and conspicuously marked.
- Idem**                    (2) No chemical appliance that has not been approved for use on live parts shall be placed in a room containing electrical apparatus or exposed lines unless a sign is mounted at the appliance warning against its use on electrical fires. 1957, c. 71, s. 12, *part*.
- Work done on live equipment**                    **466.**—(1) No repairs or alterations shall be carried out on any live equipment exceeding 300 volts to ground, except

where complete disconnection of the equipment is not practicable.

(2) If the adjustment or repairs must be made while the *Idem* equipment is alive, all necessary precautions shall be taken to ensure that the work may be done safely.

(3) In places where explosive or highly flammable materials *Idem* or gases are present, repair or alteration shall not be made on any live equipment. 1957, c. 71, s. 12, *part.*

### *Conductors*

**467.**—(1) Conductors shall be suitable for the location, *General rule* use and voltage of the circuit and shall have sufficient current-carrying capacity for the current they are required to carry.

(2) All conductors, where not protected by conduit or *Idem* armouring, shall have approved insulation and shall be mounted on cleats, porcelain knobs or insulators and shall be separated from contact with floors, walls or partitions by tubes of incombustible insulating material.

(3) All conductors of an A.C. circuit shall be run in the *Idem* same conduit or armouring. 1957, c. 71, s. 12, *part.*

**468.** All fixed conductors operating at over 150 volts, *Guards* unless isolated by an elevation of at least eight feet, shall be enclosed in grounded metal armour or shall be guarded by permanent screens or enclosures. 1957, c. 71, s. 12, *part.*

**469.** Metal-covered and insulated conductors in conduit, *Connections to apparatus* where joined to transformers, motors, switchgear and other apparatus, shall have their metal coverings secured to such apparatus by clamps, locknuts or other devices to protect the insulated conductors from mechanical injury. 1957, c. 71, s. 12, *part.*

**470.** Portable conductors supplying mobile equipment *Portable power cables* operating at more than 300 volts shall conform with the following specifications:

1. The cable shall have a voltage rating not less than 50 per cent higher than the normal operating voltage of the circuit.
2. Cable of standard rating for the normal operating voltage may be used where the cable is supplied through a circuit-breaker from a circuit wherein the neutral point is effectively grounded and adequate ground fault protection is provided.

3. All conductors including grounding conductors shall be contained in one flexible, jacketed cable assembly.
4. All portable cables transmitting power underground shall have a non-flammable covering, suitably identified.
5. Where the cable contains both the power circuit and its remote control circuit, each circuit conductor shall be insulated as required in paragraph 2 for the highest potential employed in the cable except that, where sheathing as in paragraph 11 is provided, the control conductors need only be insulated for their normal operating voltage.
6. The minimum size of the power conductors shall be No. 12, B. & S. gauge.
7. The cable shall contain as many grounding conductors as power conductors and the grounding conductors shall be located in the outer interstice between the power conductors.
8. Remote control conductors contained in the cable need not be considered as power conductors in determining the number of grounding conductors.
9. The grounding conductors contained in the cable shall be uninsulated and shall have a total conductance not less than 60 per cent of the largest power conductor.
10. The minimum size of each grounding conductor shall be not less than No. 12, B. & S. gauge.
11. Cables on circuits operating over 750 volts shall have a grounded sheathing, consisting of tinned copper wire mesh, or equivalent, around each power conductor, and this sheathing shall be, throughout the length of the cable, in contact with the interstitial grounding conductors. 1957, c. 71, s. 12, *part*.

#### *Grounding*

Protecting  
ground wire

**471.** Grounding conductors shall have adequate protection where exposed to mechanical injury. 1957, c. 71, s. 12, *part*.

Circuits to  
be grounded

**472.—**(1) One conductor of all circuits not over 150 volts shall be grounded if exposed to leakage from higher voltage circuits either through overhead construction or through transformers having a primary voltage exceeding 750 volts, except where such circuits form part of a control circuit or signalling system the grounding of which would affect the reliability of service.



(2) Three-wire single-phase circuits not exceeding 300 volts *Idem* between outer conductors shall have the neutral grounded.

(3) One conductor of the secondary circuits of all instru- *Idem* ment transformers shall be grounded unless the circuits are installed and guarded as required for the high-voltage circuits of the transformers. 1957, c. 71, s. 12, *part*.

**473.**—(1) For grounding circuits, the grounding con- *Size of* ductors shall have a current-carrying capacity equal to one- *grounding* *conductor* fifth of the largest conductor of the circuit and shall not be less than No. 8, B. & S.

(2) The grounding conductor for secondary circuits of *Idem* instrument transformers shall not be smaller than the con- ductors of the secondary circuit. 1957, c. 71, s. 12, *part*.

**474.**—(1) The exposed non-current-carrying metal parts *Equipment* of all electrical equipment shall be grounded when practicable, *to be* *grounded*

- (a) for all equipment over 150 volts; and
- (b) for all equipment under 150 volts where the exposed non-current-carrying metal parts are within reach of exposed grounded surfaces, such as metal frames of other machines, plumbing fixtures, conducting floors or walls.

(2) Grounded surfaces within five feet horizontally of the *Idem* parts considered or within eight feet vertically of the floor shall be considered within reach. 1957, c. 71, s. 12, *part*.

**475.**—(1) The current-carrying capacity of the equipment *Size of* grounding conductor shall not be less than that provided by *equipment* *grounding* *conductor* a copper conductor of the size indicated in the following table:

Rating or Setting of the Automatic Overcurrent Device in the Circuit Supplying the Equipment		Required Size of Grounding Conductor (B. & S. Gauge)	
0—30	amperes	No.	14
31—60	"	"	10
61—100	"	"	8
101—200	"	"	6
201—400	"	"	4
401—600	"	"	2
601—800	"	"	0
801—1000	"	"	00
1001—1200	"	"	000

(2) Where the grounding conductor is run outside the *Idem* cable armour or conduit enclosing the associated circuit con- ductors, the minimum size of such a grounding conductor shall be No. 8, B. & S. gauge. 1957, c. 71, s. 12, *part*.

Grounding  
conductor  
for portable  
equipment

**476.** The grounding conductor or conductors for the exposed non-current-carrying metal parts of portable equipment operating at potentials of not more than 300 volts to ground shall have a combined cross-sectional area not less than 60 per cent of the power conductor and in no case less than No. 16, B. & S. gauge and the grounding conductor or conductors may be uninsulated, but, if insulated, shall be green in colour. 1957, c. 71, s. 12, *part*.

Means of  
attachment  
to equipmen

**477.** The attachment of the grounding conductor to electrical equipment shall be made by means of suitable lugs, clamps or other equivalent means. 1957, c. 71, s. 12, *part*.

Material and  
continuity of  
grounding  
conductor

**478.** The grounding conductor shall be of copper or other metal that will not corrode excessively under the existing conditions and, if practicable, shall be continuous. 1957, c. 71, s. 12, *part*.

Piping  
system  
ground

**479.**—(1) Ground connections from circuits shall not be made to jointed piping within buildings, except that water or air piping beyond any point that is liable to disconnection may be used.

Idem

(2) Metallic water or air lines may be used for grounding, if connection is made at a point where the pipe is not liable to disconnection for alteration or repairs.

Idem

(3) Main water or air lines shall be substantially bonded together for this purpose, but shall, unless connected to a buried piping system of considerable extent that will provide a low-resistance ground, be connected to an artificial ground. 1957, c. 71, s. 12, *part*.

Means of  
attachment  
to ground  
electrode

**480.**—(1) The grounding conductor shall be connected to the grounding electrode by means of substantial ground clamp or other equivalent means.

Idem

(2) When connecting to a metallic piping system, all paint, scale and rust shall first be carefully removed. 1957, c. 71, s. 12, *part*.

Artificial  
grounds

**481.**—(1) Grounding electrodes, consisting of buried plates, driven rods or pipes, shall be embedded or extended below permanent moisture level.

Idem

(2) Grounding electrodes, consisting of iron or steel pipes, shall be not less than three-quarters of an inch in internal diameter and grounding electrodes consisting of rods shall be not less than one-half inch in diameter. 1957, c. 71, s. 12, *part*.

**482.** The grounding system shall be connected to the body of the earth, on the surface, through the lowest resistance earth contact possible. 1957, c. 71, s. 12, *part*. Grounding system, connection to earth

**483.** The earth contact of the main grounding system and supplementary earth contacts shall be provided with means to facilitate measurement of earth contact resistances. 1957, c. 71, s. 12, *part*. Ground resistance, measurement

### *Control and Protection of Circuits*

**484.**—(1) Suitable control devices shall be inserted in all feeders and branch circuits. Control devices

(2) The control devices shall be readily accessible and as close as possible to the point of supply. Idem

(3) They shall be grouped where practicable. 1957, c. 71, s. 12, *part*. Idem

**485.** Control devices shall, if practicable, be so connected that the blades or moving contacts will be dead when the device is in the open position. 1957, c. 71, s. 12, *part*. Connections

**486.**—(1) Control devices, with the exception of isolating switches, shall have a rated capacity such as to ensure safe interruption, at the working voltage, of the greatest current that they may be required to carry and shall be of such a design as to operate safely on the system from which the circuit is energized. Capacity of control devices

(2) Each control device shall be provided with a nameplate giving the manufacturer's name, the voltage rating and ampere capacity. 1957, c. 71, s. 12, *part*. Idem

**487.**—(1) The handles of manually-operated control devices shall be accessible to the operator without opening a door or cover giving access to live parts and shall indicate the "on" and "off" positions. Guarding control devices

(2) All switches interrupting circuits over 300 volts shall be operated by means of remote control mechanism or be provided with suitable casings protecting the operator from danger of contact with current-carrying parts. 1957, c. 71, s. 12, *part*. Idem

**488.** Switches or plug connectors shall be placed in all circuit leads at the point where temporary wiring or portable conductors are connected to the permanent wiring. 1957, c. 71, s. 12, *part*. Switches for temporary wiring and portable cable



Connection  
to protective  
devices

**489.** Control devices with attached overload and short-circuit protective devices shall be so connected that the overload and short-circuit devices will be dead when the control device is in the open position. 1957, c. 71, s. 12, *part*.

Enclosing  
live parts

**490.** Control devices over 150 volts to ground, unless so located or guarded as to render them inaccessible to unauthorized persons, shall have all current-carrying parts in either metal or fire-resisting enclosures. 1957, c. 71, s. 12, *part*.

Circuit  
voltages

**491.** Where it is necessary for circuits of different voltages to enter the same terminal box or interlocking relay cabinet, the circuits shall be effectively separated by barriers or shall be clearly marked. 1957, c. 71, s. 12, *part*.

Discon-  
nectors

**492.** Disconnectors shall be of suitable voltage and ampere rating for the circuit in which they are installed and, unless accessible only to qualified persons, they shall be protected by signs warning against opening the switch under load. 1957, c. 71, s. 12, *part*.

Visible break  
requirement

**493.—**(1) Unless a control device on circuits over 300 volts makes a visible break, there shall be installed between the control device and its point of supply a suitable disconnecting switch.

Idem

(2) All disconnecting and isolating switches used on circuits over 300 volts shall be of the visible-break type. 1957, c. 71, s. 12, *part, amended*.

Barriers

**494.** Barriers shall be provided between circuits where more than one set of disconnecting switches are installed adjacent to each other. 1957, c. 71, s. 12, *part*.

Protection  
for inside  
circuits

**495.—**(1) Except as provided for in this rule, every conductor installed underground or within mine buildings shall be protected against short circuit at the point where it receives its supply and at any point where the size of the conductor is reduced.

Idem

(2) Such conductors shall also be protected against over-current and the rating or setting of the protective device shall not exceed the allowable current-carrying capacity of the circuit conductors except in the case of branch motor circuits where the rating or setting of the device may be increased sufficiently to take care of motor-starting currents.

Idem

(3) Unless the opening of the device disconnects all circuit conductors at the same time, no manually-operated or automatically-operated disconnecting device shall be placed in a neutral or grounded conductor.

(4) Such protection may be omitted in the following cases: *Idem*

1. Where the branch circuit is not more than twenty-five feet in length.
2. Where the protection for a larger conductor properly protects a smaller.
3. Where the opening of the circuit may cause special hazard by interruption of service or removal of protection. 1957, c. 71, s. 12, *part*.

**496.** Where fuses are installed for the protection of circuits or equipment, only an approved type fuse and fuse holder of proper rating shall be used. 1957, c. 71, s. 12, *part*.

Type of fuses

**497.** All fuse cut-outs installed indoors shall be installed in approved fire-resisting cabinets or shall be of a fire-resisting type. 1957, c. 71, s. 12, *part*.

Fuse cut-outs in fire-resisting cabinets

**498.** Unless fuse cut-outs are so arranged that the fuses can be safely disconnected from all sources of electrical energy before the ungrounded current-carrying parts can be touched, switches shall always be so placed and arranged that opening them will disconnect the fuses from all sources of electrical energy. 1957, c. 71, s. 12, *part*.

Switches to disconnect fuses and fuse cut-outs

**499.** Fuse cut-outs on circuits above 300 volts to ground shall be made inaccessible to unauthorized persons, and switches shall be so placed and arranged that opening them will disconnect the fuses from all sources of electrical energy. 1957, c. 71, s. 12, *part*.

Protecting fuse cut-outs above 300 volts

**500.** On all ungrounded utilization systems over 300 volts, suitable instruments or devices shall be installed and maintained for indicating the presence of ground faults. 1957, c. 71, s. 12, *part*.

Ground detectors

#### *Control and Protection of Apparatus*

**501.** Suitable control and protective devices shall be installed in the leads to all individual pieces of electrical equipment such as generators, motors, transformers, storage batteries, electric furnaces, and other such equipment, except between parts or pieces of apparatus intended to operate as a unit. 1957, c. 71, s. 12, *part*.

Control of electrical equipment

**502.** All control devices installed outdoors shall be of an approved type, or suitably protected from the weather. 1957, c. 71, s. 12, *part*.

Control devices, outdoors

General  
requirements  
of control  
devices

**503.**—(1) All control devices shall be readily and safely accessible to authorized persons and they shall be so located, labelled or marked as to afford means of identifying circuits or equipment supplied through them and manually-operated control devices shall indicate whether they are open or closed.

Idem

(2) They shall be so installed, where practicable, that they cannot be closed by gravity, and switches that close by gravity shall be provided with a proper stop-block or latch to prevent accidental closing. 1957, c. 71, s. 12, *part.*

Good  
contact  
required

**504.** Switches, controllers and rheostats shall be so constructed as to make and maintain good contact. 1957, c. 71, s. 12, *part.*

Knife  
switches

**505.** Knife switches shall maintain such alignment under service conditions that they may be closed with a single, unhesitating motion. 1957, c. 71, s. 12, *part.*

Isolation by  
elevation

**506.** All exposed current-carrying parts of electrical equipment such as bus bars, conductors and terminals, operating at over 150 volts and not isolated by an elevation of at least eight feet, shall be effectively guarded. 1957, c. 71, s. 12, *part.*

Utilization  
equipment

**507.**—(1) Suitable working space shall be provided and maintained about all electrical equipment.

Idem

(2) Where adjacent to exposed live parts, such working spaces shall be so arranged that they will not be used as passageways.

Idem

(3) The working space, where adjacent to exposed parts within eight feet of the floor, shall, where practicable, have the following minimum horizontal dimensions:

Volts to ground	Equipment on one side aisle	Equipment on both sides aisle
Below 150.....	1.5 feet	2.5 feet
Above 150.....	2.5 feet	4.0 feet

1957, c. 71, s. 12, *part.*

Control  
of motors

**508.**—(1) All motors shall be provided with proper starting equipment rated in horsepower and, for all motors up to 50 horsepower, except as provided for below, the motor and its starting equipment shall be controlled by a motor-circuit switch that will disconnect all ungrounded conductors of the circuit, leaving the motor and entire starting equipment dead.

Idem

(2) An isolating switch or a general-use switch treated as an isolating switch may be used for motors of more than 50 horsepower. 1957, c. 71, s. 12, *part.*



**509.**—(1) For all motors up to 750 volts, the motor-circuit switch shall have a horsepower rating not less than that of the <sup>Rating of motor-circuit switch</sup> motor it controls.

(2) Where a general-use switch or an isolating switch is <sup>Idem</sup> used for motors of more than 50 horsepower, it shall have a rating not less than 115 per cent of the current rating of the motor as shown on the nameplate and a minimum rating of 200 amperes. 1957, c. 71, s. 12, *part*.

**510.** In all cases, the motor-circuit switch, general-use switch or isolating switch shall be of the visible-break type. <sup>Visible break requirement</sup> 1957, c. 71, s. 12, *part*.

**511.** One motor-circuit switch may serve a group of motors <sup>Group of motors</sup> if the motors drive several parts of a single machine or apparatus. 1957, c. 71, s. 12, *part*.

**512.** The motor-circuit switch may be omitted where a <sup>Motor starters</sup> circuit breaker or autostarter is employed as the starting device and, in this case, the motor-circuit switch may be replaced by a general-use switch or isolating switch. 1957, c. 71, s. 12, *part*.

**513.** Manually-operated motor starters of the compensator <sup>Idem</sup> type having both a starting and running position shall be so designed that they cannot remain in the starting position. 1957, c. 71, s. 12, *part*.

**514.** Manually-controlled starters for all D.C. motors and <sup>Motor control devices</sup> for all A.C. motors over five horsepower shall be so designed and the circuits so arranged that they return automatically to the "off" position upon the failure of the energy supply, except where the motors and their starting devices are, during operation, under the supervision of qualified persons and the equivalent protection is otherwise provided. 1957, c. 71, s. 12, *part*.

**515.** Each motor shall be protected against continuous <sup>Protection of motors</sup> overload by an overload device that will interrupt the circuit at 125 per cent of the normal current rating of the motor. 1957, c. 71, s. 12, *part*.

### *Supply Stations*

**516.**—(1) No unauthorized person shall enter an electrical <sup>Supply stations</sup> supply station or interfere with the workings of any electrical equipment connected therewith.

(2) Utilization equipment, if enclosed in a separate room <sup>Idem</sup> that is inaccessible to unauthorized persons and when in

service is under the control of a qualified electrical operator whose attention is not distracted by other processes, shall be considered as electrical supply station equipment.

Idem

(3) When the authorized person is not present, the door of such room shall be kept securely locked. 1957, c. 71, s. 12, *part*.

Disconnection when mine abandoned

**517.** In case of abandonment of a mine, the owner, manager or superintendent shall cause such station or stations supplying power to and being the property of the mine to be disconnected from the power source and within fourteen days shall notify the chief engineer in writing that the disconnection has been made. 1957, c. 71, s. 12, *part*.

Working space in supply stations

**518.—(1)** In supply stations, suitable working space shall be provided and maintained about all electrical equipment.

Idem

(2) The following minimum clearances shall be maintained:

Volts to ground	Equipment on one side aisle	Equipment on both sides aisle
300 to 750.....	2.5 feet	3 feet
Above 750.....	3 feet	5 feet

1957, c. 71, s. 12, *part*.

Guarding current-carrying parts

**519.—(1)** In supply stations, current-carrying parts and conductors shall be guarded unless they are elevated the following distances above floors that may be occupied by persons:

Circuit voltage	Elevation in feet
300 to 750.....	7
751 to 2,500.....	7.5
2,501 to 7,500.....	8
7,501 to 30,000.....	9
30,001 to 70,000.....	10
70,001 to 100,000.....	12

Idem

(2) Where current-carrying parts must necessarily be exposed (unguarded) at distances less than those specified from the floor line, all surrounding conducting floors shall be covered with suitable insulating mats or platforms.

Idem

(3) Where the current-carrying parts operate at over 7,500 volts, they shall be guarded, even when insulating mats are also provided. 1957, c. 71, s. 12, *part*.

Enclosing live parts

**520.** Control devices over 300 volts to ground, unless so located or guarded as to eliminate the danger of accidental contact, shall have all current-carrying parts in either metal or fire-resisting enclosures. 1957, c. 71, s. 12, *part*.

**521.**—(1) Rooms and spaces shall have good artificial illumination. Lighting for supply stations

(2) Arrangement of permanent fixtures and plug receptacles shall be such that the portable cords need not be brought into dangerous proximity to live electrical apparatus. Idem

(3) All lamps shall be so arranged that they may be controlled and replaced from readily accessible places. 1957, c. 71, s. 12, *part.* Idem

**522.** A separate emergency source of illumination from an independent generator, storage battery, lanterns or other suitable source shall be provided in every supply station where an attendant is located. 1957, c. 71, s. 12, *part.* Emergency lighting for supply stations

### *Switchboards*

**523.** Panels of switchboards shall be of incombustible material and shall be substantially supported on a metal framework. 1957, c. 71, s. 12, *part.* Construction

**524.** All control devices shall be so arranged that the operating mechanisms are readily accessible to the operator. 1957, c. 71, s. 12, *part.* Control device accessible

**525.** Adequate working space shall be provided around all switchboards and they shall be so placed that the operator will not be endangered by machinery or equipment located near the board. 1957, c. 71, s. 12, *part.* Location

**526.** Adequate illumination shall be provided for reading instruments and other operations. 1957, c. 71, s. 12, *part.* Lighting

**527.** Exposed bare parts of different potentials on a switchboard or panelboard shall be as few as practicable and they shall be effectively separated. 1957, c. 71, s. 12, *part.* Protecting against short-circuiting

**528.** All switchboards, except in supply stations, having exposed current-carrying parts less than eight feet from the floor and operating at over 150 volts to ground shall be suitably guarded. 1957, c. 71, s. 12, *part.* Guarding current-carrying parts

**529.** Open-type disconnectors mounted above switchboard panels shall not be considered exposed if set back one foot from the face of the panel and elevated so that no bare current-carrying part is less than six and a half feet from the floor. 1957, c. 71, s. 12, *part.* Open-type disconnectors

**530.** Where switchboards at voltages below 150 to ground are accessible to other than authorized operators, they shall, Where enclosure required



where practicable, be enclosed in cabinets or screens as an effective precaution against accidental short-circuit. 1957, c. 71, s. 12, *part*.

### *Transformers*

**General requirements**      **531.**—(1) Transformers shall be of a type and design suitable for the location in which they are to be installed.

**Nameplate required**      (2) Each transformer shall be provided with a nameplate giving the maker's name, rating in kva, primary and secondary voltage ratings, frequency, and liquid capacity (if of the liquid-filled type).

**Specified liquid**      (3) If the transformer is to be filled with an approved liquid that will not burn in air, the liquid shall be specified. 1957, c. 71, s. 12, *part*.

**Enclosure to be required**      **532.** Transformers having a primary voltage in excess of 600 volts to ground and all transformers having exposed terminals, including their conductors and control and protective devices, shall be accessible only to authorized persons and, unless isolated by elevation, they shall be surrounded by an enclosure that, if of metal, shall be grounded and suitable warning signs indicating the highest potential employed shall be conspicuously posted. 1957, c. 71, s. 12, *part*.

**Special transformers**      **533.**—(1) Dry-core type transformers with Class A insulation, if installed within a building not of fire-resisting construction, shall be in a fire-resisting enclosure.

**Idem**      (2) Transformers containing an approved liquid that will not burn in air and transformers of the dry-core type with Class B or Class C insulation may be installed within or attached to the wall of a building not of fire-resisting construction, if they are surrounded by a suitable enclosure to prevent mechanical injury and access by unauthorized persons. 1957, c. 71, s. 12, *part*.

**Oil-filled transformers**      **534.**—(1) Oil-filled transformers installed outdoors shall be located not less than fifty feet distant from the shafthouse or any combustible building attached thereto and means shall be provided to contain escaping oil or to direct the flow away from such buildings.

**Idem**      (2) Oil-filled transformers shall not be mounted on or above combustible roofs and, if attached to the exterior of a building other than a transformerhouse, shall be placed only against non-combustible walls and away from all openings.

(3) Oil-filled transformers, if within a building other than a transformerhouse, shall be in a vault constructed of fire-resisting materials, suitably drained and ventilated to outdoors, the door openings to be provided with not less than six-inch non-combustible sills. 1957, c. 71, s. 12, *part*.

**535.** Transformer buildings containing oil-filled transformers, if not entirely of fireproof construction, shall be located at least fifty feet distant from any other combustible building. 1957, c. 71, s. 12, *part*.

**536.**—(1) Suitable control devices shall be installed on the primary side of all power and distribution transformers.

(2) Minimum requirements for the control devices on the main high-tension transformer bank connected to the supplier's lines shall consist of a set of gang-operated air-break disconnecting switches or a suitable circuit-breaker preceded by disconnecting switches. 1957, c. 71, s. 12, *part*.

**537.** Transformers shall be protected against overload and short-circuit by suitable protective devices, unless the nature of the system makes protective devices inadvisable or unnecessary. 1957, c. 71, s. 12, *part*.

**538.** Secondary circuits of current transformers shall be provided with means for short-circuiting them that can be readily connected while the primary is energized and that are so arranged as to permit the removal of any instrument or other device from the circuits without opening the circuits. 1957, c. 71, s. 12, *part*.

**539.** When primaries are above 7,500 volts, secondary circuits of current and potential transformers, unless otherwise adequately protected from injury or contact of persons, shall be in permanently grounded conduit or flexible armour. 1957, c. 71, s. 12, *part*.

#### *Transmission Lines*

**540.** All electrical supply lines and equipment shall be of suitable design and construction for the service and the conditions under which they are to be operated, and all lines shall be so installed and maintained as to reduce the life hazard as far as practicable. 1957, c. 71, s. 12, *part*.

**541.** Conductors and other current-carrying parts of supply lines shall be so arranged as to provide adequate clearance from the ground or other space generally accessible or shall be provided with guards so as to isolate them effectively from accidental contact of person. 1957, c. 71, s. 12, *part*.

Entrance to buildings      **542.** Where supply lines over 300 volts to ground pass over or are attached to any buildings for entrance, they shall be permanently guarded if accessible. 1957, c. 71, s. 12, *part*.

Clearance over railways      **543.**—(1) Supply lines carried over railways operated by steam, electric or other motive power and on which standard equipment, such as freight cars, is used shall have the style of construction and clearances overhead as called for in the regulations of the Board of Transport Commissioners for Canada.

Idem      (2) Supply lines crossing over railways on which standard equipment is not used and lines crossing over roadways shall have ample clearance for the operating conditions and shall be substantially supported. 1957, c. 71, s. 12, *part*.

#### *Wiring in Explosives Storages*

General requirements      **544.** All electrical wiring in explosives magazines, thaw houses, detonator or blasting cap storage buildings, or cap and fuse houses, shall be installed in rigid conduit with screwed, water-tight joints, or shall be armoured lead-covered cable. 1957, c. 71, s. 12, *part*.

Grounding equipment      **545.** All conduit, armour, fittings and fixtures shall be permanently grounded. 1957, c. 71, s. 12, *part*.

Location of switches and fuses      **546.** The switches and fuses for lighting, heating or telephone circuits for explosives magazines, thaw houses, detonator or blasting cap storage buildings and cap and fuse houses shall be in a fire-resisting cabinet located outside the compartment in which explosives, fuses or detonators, or blasting caps, are stored. 1957, c. 71, s. 12, *part*.

Lighting circuits      **547.** Lighting circuits shall be fused at not more than 10 amperes. 1957, c. 71, s. 12, *part*.

Lighting fixtures      **548.** Lighting fixtures shall be an approved dust-tight type. 1957, c. 71, s. 12, *part*.

Electric heating      **549.** Where thaw houses, or cap and fuse houses, are heated electrically, a hot-water system shall be used. 1957, c. 71, s. 12, *part*.

Location      **550.** The electric heater shall be installed outside the compartment in which the explosives are stored and the heater and radiators shall be grounded. 1957, c. 71, s. 12, *part*.

Fusing of heater circuits      **551.** Heater circuits shall be fused at not more than 125 per cent of normal current. 1957, c. 71, s. 12, *part*.



**552.** Wire or grid-type heaters shall not be installed in or <sup>Wire or grid-type heaters</sup> about any building in which explosives or detonators or blasting caps are stored or handled. 1957, c. 71, s. 12, *part.*

### *Electric Blasting Devices*

**553.** The firing device used for firing charges with elec- <sup>Construction</sup> tricity from lighting or power cables shall be so arranged that,

- (a) the switch mechanism will automatically return to the open position by gravity;
- (b) the live side of such device is installed in a fixed locked box and shall be accessible only to the authorized blaster;
- (c) provision is made that the leads to the face are short-circuited when the contacts of the electric blasting device are in the open position;
- (d) the box in which the electric blasting device and the short-circuiting device are mounted is provided with a lock and the door is so arranged that it cannot be closed or locked unless the contacts of the electric blasting device are open and the short-circuiting device is in place;
- (e) where electricity from 550-volt circuits is used for blasting, the device shall be electro-magnetically operated, except as provided in section 254. 1957, c. 71, s. 12, *part.*

**554.** When blasting cables or wires are installed in the <sup>Precautions re installation of blasting cables</sup> vicinity of power or lighting cables, proper precautions shall be taken to prevent the blasting cables or wires coming in contact with the lighting or power cables. 1957, c. 71, s. 12, *part.*

**555.** Circuits having a grounded conductor shall not be <sup>Grounded circuits</sup> used for blasting. 1957, c. 71, s. 12, *part.*

### *Lightning Arresters*

**556.** When installed inside buildings, lightning arresters <sup>Location</sup> shall be located as far as practicable from all other equipment and from combustible parts of the building. 1957, c. 71, s. 12, *part.*

**557.** All non-current-carrying parts of lightning arresters <sup>Grounding non-current-carrying parts</sup> shall be grounded, unless effectively isolated by elevation or guarded as required for live parts of the voltage of the circuit to which the arrester is connected. 1957, c. 71, s. 12, *part.*

Guarding  
current-  
carrying  
parts

**558.** All current-carrying parts of lightning arresters on circuits above 300 volts, unless effectively isolated by elevation, shall be adequately guarded to protect persons from inadvertent contact with them, or from injury by arcing. 1957, c. 71, s. 12, *part*.

Provisions  
for discon-  
necting

**559.** Lightning arresters on circuits over 7,500 volts and all lightning arresters that may require work to be done upon them from time to time shall be so arranged and equipped that they may be readily isolated by air-break manual disconnectors. 1957, c. 71, s. 12, *part*.

Grounding  
conductors  
on power  
transmission  
systems

**560.** Grounding conductors for lightning arresters on power transmission systems shall be run as directly as possible and be of low resistance and ample capacity. 1957, c. 71, s. 12, *part*.

Size and  
installation

**561.** In no case shall such grounding conductors be less than No. 6 copper wire, nor shall such grounding conductors pass through metal conduits unless electrically connected to both ends of the conduits. 1957, c. 71, s. 12, *part*.

### *Lighting*

Guarding  
live parts

**562.** Electric fixtures, such as lamp sockets and lamp bases, plugs, receptacles, etc., shall be so installed that no current-carrying parts are normally exposed externally when these parts are within reach of grounded surfaces. 1957, c. 71, s. 12, *part*.

Portable  
lamp  
construction

**563.**—(1) In locations where they are exposed to dampness or mechanical injury, portable lamps shall have their sockets enclosed in wood or composition handles through which the conductor shall be carried and shall have a substantial wire cage that encloses the lamp.

Idem

(2) A hook for hanging the lamp shall be attached either to the cage or to the handle. 1957, c. 71, s. 12, *part*.

Maximum  
operating  
voltage

**564.** The operating voltage of a lighting circuit shall not exceed 300 volts and the voltage to ground of a conductor shall not exceed 150 volts, but this section does not apply in the case of electric locomotives and cranes using direct current. 1957, c. 71, s. 12, *part*.

Identifi-  
cation of  
neutral  
conductors

**565.** The neutral conductor on lighting circuits shall be identified by a white braid covering or other equivalent means. 1957, c. 71, s. 12, *part*.

### Telephones

**566.** Telephone or other signal apparatus that must be handled by persons and that is connected to overhead signal circuits exposed by supply lines over 400 volts to ground shall be protected as follows: Protecting equipment

1. By fuses and arresters.
2. All exposed non-current-carrying metal parts shall be permanently grounded or the apparatus shall be installed in such a way that a person using it will be obliged to stand on an insulated platform, in an insulated booth, or on other insulating surfaces. 1957, c. 71, s. 12, *part.*

**567.** Telephone or other signal apparatus that is connected to a line that parallels a supply circuit of high voltage in such a manner as to be exposed to induced voltage shall be protected by transformers and shall comply with the requirements of section 566. 1957, c. 71, s. 12, *part.* Protecting equipment exposed to induced voltage

### Cranes and Elevators

**568.** Readily accessible means shall be provided whereby all conductors and equipment located in or on cars or cranes may be disconnected entirely from the source of energy at a point as near as possible to the trolley or other current collector. 1957, c. 71, s. 12, *part.* Disconnections for cars and cranes

**569.** A circuit-breaker or switch, capable of interrupting the circuit under heavy loads, shall be used unless the current collector can be safely removed, under heavy loads, from the trolley wire. 1957, c. 71, s. 12, *part.* Switch required on cars and cranes

### Storage Batteries

**570.** Storage batteries in rooms used also for other purposes shall be adequately guarded or enclosed. 1957, c. 71, s. 12, *part.* Protection

**571.** Means shall be provided, if necessary, to prevent dangerous accumulations of flammable gas. 1957, c. 71, s. 12, *part.* Prevention of gas accumulation

**572.** Batteries whose operating voltage exceeds 50 volts shall be installed in conformity with the provisions covering equipment. 1957, c. 71, s. 12, *part.* Batteries over 50 volts



*Trolley Wires*

## Guarding

**573.** Trolley or crane collector wires, whether indoors or outdoors, shall, where practicable, be elevated at least eight feet above the ground level and be provided with suitable guards so arranged that persons cannot inadvertently touch the current-carrying parts while in contact with the ground or with conducting material connected to the ground. 1957, c. 71, s. 12, *part*.

Maximum  
operating  
voltage

**574.** In underground workings, tunnels or under bins or in similar locations where trolley wires are necessarily less than eight feet above the rail level, the operating voltage shall not exceed 300 and the wires shall be effectively guarded to prevent accidental contact of person. 1957, c. 71, s. 12, *part*.

*Electric Hoists*

## Installation:

**575.** On all electric hoists,

automatic  
brake

(a) there shall be installed one or more brakes that will be applied automatically to bring the hoist to rest in event of power failure;

overwind  
and  
underwind  
devices

(b) there shall be installed a suitable overwind and underwind device in conjunction, if necessary, with a suitable overspeed device that will cause the circuit breaker to cut off the source of power and apply automatically one or more brakes to bring the hoist to rest before the cable attachment can reach the sheave or before the conveyance reaches the position of a permanent obstruction to its free passage, except that, in shaft sinking, inspection and maintenance operations, the underwind protection may be dispensed with and such device shall be so designed, installed and maintained as to provide positive protection at all times and to function at a definite point in the travel of the conveyance, and no person shall alter the adjustment of any overwind or underwind device without proper authority; and

intermediate  
obstructions

(c) where ore or waste dumps, loading boxes or spill doors are installed in a shaft at points other than the upper and lower limits of the regular travel of the shaft conveyance and where a part of the dump box or door, when in the operating position, interferes with the free and unobstructed passage of the conveyance to points in the shaft beyond the dump boxes or doors, there shall be installed,

(i) overwind and underwind protection, as required by clause *b* and by section 582, for permanent obstructions, and

- (ii) positive locking devices for maintaining such obstructions out of the operating position in the shaft,

and the manager of a mine or his agent using such ore or waste dumps, loading boxes or spill doors shall provide an adequate procedure for the safe operation of such equipment, which shall be approved by the chief engineer. 1957, c. 71, s. 12, *part*.

**576.**—(1) A circuit-breaker shall cut off the source of <sup>Circuit-breaker</sup> power and result in the automatic application of one or more brakes to bring the hoist to rest in the event of a predetermined overload. 1957, c. 71, s. 12, *part*.

(2) The circuit-breaker shall be installed on the supply side <sup>Idem</sup> of the hoist-reversing contactors or controllers. 1957, c. 71, s. 12, *part*.

(3) The circuit-breaker shall be equipped with overload, <sup>Idem</sup> short-circuit and low-voltage protective devices. 1957, c. 71, s. 12, *part*.

(4) The control circuit shall be so arranged that the circuit- <sup>Idem</sup> breaker will be opened by an emergency switch, as provided for in section 579. 1957, c. 71, s. 12, *part*.

(5) The overload device shall be set so as to open the circuit- <sup>Idem</sup> breaker in the event of a predetermined overload. 1957, c. 71, s. 12, *part*.

**577.** A back-out switch shall permit backing out of an <sup>Back-out switch</sup> overwind and underwind position only and shall prevent the operation of the hoist in the improper direction for this purpose. 1957, c. 71, s. 12, *part*.

**578.** An underwind by-pass switch may be installed, where necessary, that will allow the conveyance to be lowered <sup>Underwind by-pass switch</sup> through the underwind position if it is held in the closed position by the hoistman and will return automatically to the open position when not so held. 1957, c. 71, s. 12, *part*.

**579.**—(1) An emergency switch shall, when opened, cause <sup>Emergency switch</sup> the circuit-breaker to cut off the source of power and apply automatically one or more brakes to bring the hoist to rest.

(2) The emergency switch shall be manually opened and <sup>Idem</sup> closed and shall be installed in a position readily accessible to the hoistman. 1957, c. 71, s. 12, *part*.

**580.** An ammeter in plain view of the hoistman shall show <sup>Ammeter</sup> the load on the hoist motor at all times. 1957, c. 71, s. 12, *part*.

Auxiliary  
overwind

**581.**—(1) On all electric hoists used for hoisting men in skips or in skips of skip-cage assemblies, an auxiliary overwind device shall be installed that will prevent the conveyance being hoisted to the dumping position and that may be placed in operation at all times that men are carried, but, on hoists not used for hoisting men, other than for shaft inspection or maintenance operations, such auxiliary overwind device is not required.

Idem

(2) Except in shaft sinking, such auxiliary overwind device shall be so installed that a distinctive signal will be automatically given to the men about to enter the conveyance when the device is put in operation.

Idem

(3) The auxiliary overwind device may be placed in operation either manually or automatically.

Idem

(4) In those cases where the device is automatically put into operation by the hoistman's return of the 3-bell signal, the circuit shall be so arranged that the failure of the relay coils will not render the device inoperative. 1957, c. 71, s. 12, *part*.

Approach  
warning  
signal

**582.**—(1) At every shaft exceeding 300 feet in depth below the collar, adequate provision shall be made whereby the hoistman is audibly warned of the arrival of the shaft conveyance at points in the shaft the distances of which from the top and bottom landing places are not less than the equivalent of three revolutions of the drum of the hoist.

Idem

(2) The warning signal shall be so arranged as to sound only when the hoisting conveyance is approaching the top or bottom landings, not leaving them. 1957, c. 71, s. 12, *part*.

Special  
testing

**583.** If an electrical engineer deems it necessary, he may, after consultation with the manager, conduct or require to be conducted specific tests of the efficiency of all electric overwind and underwind devices, signalling and warning devices and hoisting controls and equipment. 1957, c. 71, s. 12, *part*.

Electrical  
Hoisting  
Equipment  
Record Book

**584.**—(1) The owner or manager of a mine where an electric hoist is in use shall depute some competent person or persons whose duty it is to examine at least once in each week the hoist motor and control apparatus, electric safety devices and hoisting signalling equipment.

Idem

(2) The report of such examination shall be recorded as provided in subsection 3.

Idem

(3) The owner or manager shall keep or cause to be kept at the mine for each hoist a book called the Electrical Hoisting Equipment Record Book in which shall be recorded a report



of every such examination and a notation of any failure or accident to such equipment and the action taken regarding it, signed by the person making the examination.

(4) Such entries of the weekly examination shall be read <sup>Idem</sup> and signed every week by the person in charge of such equipment or accessories thereto.

(5) A notation of the action taken regarding the report <sup>Idem</sup> of any failure or accident to any part of the electrical equipment used in connection with the hoist or the signalling equipment shall be made over the signature of the person in charge of such equipment or accessories thereto.

(6) The Electrical Hoisting Equipment Record Book shall <sup>Idem</sup> be made available to an engineer at all times. 1957, c. 71, s. 12, *part*.

### *Underground Installations*

**585.** The provisions of this Part that apply to surface <sup>General</sup> installations apply equally to underground installations, except sections 586 to 604, which apply only to underground installations. 1957, c. 71, s. 12, *part*.

**586.**—(1) The bases of electric motors, transformers, <sup>Fire</sup> starting equipment and other electrical apparatus and the <sup>prevention</sup> compartments in which they are installed shall be of such material and constructed in such manner as to reduce the fire <sup>underground</sup> hazard to a minimum.

(2) No flammable material shall be stored or placed in the <sup>Idem</sup> same compartment with any such equipment or apparatus. 1957, c. 71, s. 12, *part*.

**587.**—(1) Approved fire-extinguishing devices for use on <sup>Fire-</sup> electrical fires shall be provided and maintained in condition <sup>extinguishing</sup> for immediate use. <sup>devices</sup>

(2) They shall be conveniently mounted at or in every <sup>Idem</sup> place containing electrical apparatus having flammable insulation or parts that, once ignited, may support combustion. 1957, c. 71, s. 12, *part*.

**588.**—(1) Where electrical energy is taken underground, <sup>Control</sup> provision shall be made so that the current may be cut off on <sup>of under-</sup> the surface. <sup>ground</sup> <sup>feeders</sup>

(2) The control device shall not be accessible to unauthor- <sup>Idem</sup> ized persons and, if not located in a supply station, shall be in a separate room or screened-off enclosure. 1957, c. 71, s. 12, *part*.

Maximum  
voltage of  
signal  
system

**589.** The operating voltage on signal systems shall not exceed 150 volts to ground. 1957, c. 71, s. 12, *part*.

Grounding  
of signal  
system

**590.**—(1) One conductor of the two-wire signal circuit shall be grounded where the power supply is obtained from a transformer having a primary voltage in excess of 750 volts.

Idem

(2) The signal system may be operated with both conductors ungrounded when the supply is from a transformer having a primary voltage in excess of 750 volts, if an insulating transformer having a 1-to-1 ratio is installed between the supply and the signal system. 1957, c. 71, s. 12, *part*.

Separate  
signal  
for each  
conveyance

**591.** Where an electrical hoisting-signal system is installed at a shaft or winze, there shall be a suitable, separate, audible signal system for the control of each hoisting conveyance operated from a single hoist and there shall be a sufficient difference in the sounds of the signals to the hoistman that they are easily distinguishable and it shall be so arranged that the hoistman can return the signal to the person giving the signal. 1957, c. 71, s. 12, *part*.

Power  
conductors

**592.**—(1) Conductors for all circuits not over 150 volts to ground shall either be installed in standard conduits, armoured or non-flammable casings, or securely tied to suitable insulators so that they do not touch any timbering or metal, but in no case shall staples be used.

Idem

(2) All fixed conductors transmitting power underground at over 150 volts to ground shall be armoured or enclosed in standard conduit and substantially supported.

Idem

(3) Open-type wiring shall not be used in timbered shafts or winzes, except in cases of extreme emergency. 1957, c. 71, s. 12, *part*.

Bonding of  
armourings  
or casings

**593.** The armouring or casings of all cables shall be bonded together so as to be electrically continuous and shall be connected at some point or points to a satisfactory ground on surface. 1957, c. 71, s. 12, *part*.

Adequate  
grounding  
for equip-  
ment

**594.** Where the armouring or casings of cables do not provide an adequate grounding system for underground electrical equipment, a copper or other non-corrosive grounding conductor of adequate size shall be run from such equipment to a satisfactory ground on surface. 1957, c. 71, s. 12, *part*.

Certified  
copy of  
tests  
required

**595.** All new cables purchased for the transmission of power underground at a potential in excess of 750 volts shall be accompanied by the manufacturer's certified report of

insulation tests, a copy of which shall be filed with the chief engineer. 1957, c. 71, s. 12, *part.*

**596.**—(1) All cables transmitting power underground at a potential exceeding 750 volts shall have a voltage rating of 50 per cent higher than the normal operating voltage. Rating of power cables

(2) Cable of standard voltage rating for the normal operating voltage may be used where the cable is supplied through a circuit-breaker from a circuit wherein the neutral point is effectively grounded and adequate ground fault protection is provided. 1957, c. 71, s. 12, *part.* Standard cable

**597.** All lead-sheathed cables shall be provided with properly sealed cable terminals to exclude moisture from the insulation. 1957, c. 71, s. 12, *part.* Terminals of lead-sheathed cables

**598.** Adequate precautions shall be taken to prevent electrical signal or telephone wires, whether insulated or not, coming into contact with other electrical conductors. 1957, c. 71, s. 12, *part.* Protection of signal and telephone wires

**599.** At an underground station where a cable transmitting power at a potential exceeding 300 volts leaves the shaft, a room or junction box shall be provided into which the cable shall be run. 1957, c. 71, s. 12, *part.* Room or junction box

**600.** Junction boxes on a cable transmitting power at a potential exceeding 300 volts shall not be located in a shaft or winze or attached to any timbers at a shaft or winze station or headframe. 1957, c. 71, s. 12, *part.* Junction boxes in shafts

**601.** Splice boxes for cable extension in a shaft or winze shall be of a type approved by an electrical engineer. 1957, c. 71, s. 12, *part.* Splice boxes

**602.** The type and location of transformers installed underground is subject to the approval of an electrical engineer. 1957, c. 71, s. 12, *part.* Transformers, type and location

**603.**—(1) All transformers over 2 kva, unless insulated with non-flammable dielectric liquids or Class B or Class C insulation, when installed underground, shall be effectively isolated from the mine workings by enclosure in rooms constructed of fire-resisting materials throughout and a door sill of not less than six inches in height shall be provided. Transformers and transformer rooms

(2) No material or equipment of any kind, including air lines, air ducts, water and steam lines, shall pass through or Idem



terminate within the room, other than that essential to the transformer installation of its proper operation and safety.

Idem

(3) The covers of the ventilation openings shall be held open by thermal fuse links and shall close by gravity and the door shall be constructed of steel or other suitable material.

Idem

(4) No transformer station shall be located within 200 feet of an explosives storage. 1957, c. 71, s. 12, *part*.

Electric  
heaters

**604.** Where lamps, wire or grid-type heaters are used underground, they shall be so installed and protected as to prevent the heat generated from becoming a fire hazard. 1957, c. 71, s. 12, *part*.

#### GENERAL

Willful  
damage to  
property

**605.** No person shall wilfully damage or, without proper authority, remove or render useless any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve, electrical equipment, fire-fighting equipment, first-aid equipment or other appliance or thing provided in a mine in compliance with this Act. 1957, c. 71, s. 12, *part*.

Persons  
under the  
influence  
of or  
carrying  
liquor

**606.** No person under the influence of or carrying intoxicating liquor shall enter a mine or be in the proximity of a working place on the surface or near machinery in motion. 1957, c. 71, s. 12, *part*.

Abstracts  
to be  
posted

**607.** Abstracts of the provisions of this Act, authorized by the chief engineer, shall be posted up in suitable places at the mine or works where they can be conveniently read and the owner or agent of the mine shall maintain such abstracts, duly posted, and the removal or destruction of any of them is an offence against this Act. 1957, c. 71, s. 12, *part*.

Charges

**608.** The Minister may prescribe the charge to be made for any record or log book required under this Part. 1957, c. 71, s. 12, *part, amended*.

#### TESTING LABORATORIES

Testing  
laboratories

**609.** The Minister may, out of the moneys that are appropriated for the purpose, establish, maintain and operate one or more laboratories for the purpose of testing or examining hoisting ropes or other appliances used about a mine and, by regulations made by the Lieutenant Governor in Council, may provide for,

- (a) the management and operation of such laboratory or laboratories;

- (b) the charges to be paid for services performed in such laboratory or laboratories;
- (c) such other purposes as to the Lieutenant Governor in Council deems proper. 1957, c. 71, s. 12, *part*.

## PARTY WALLS

**610.**—(1) Subject to section 197 and except by agreement Boundary operations under subsection 3, no mining operations shall be carried on within a distance from the property boundary of a mine or mining property of twice the width or thickness of the orebody at the boundary, measured parallel to the boundary from foot wall to hanging wall and normal to the dip, and in no event shall mining operations be carried on within a distance of twenty feet from the boundary measured perpendicular to the boundary,

- (a) except that for the purposes of preliminary investigation, development headings may be advanced to twenty feet from the boundary; and
- (b) except that exploratory diamond drilling may be done.

(2) Subsection 1 does not apply to operations at sand, Non-application gravel or clay pits or opencast rock quarries.

(3) Adjoining owners may, by agreement in writing signed Agreement by adjoining owners by them, carry on mining operations within the distances from the property boundary mentioned in subsection 1. 1957, c. 71, s. 12, *part*.

(4) Two certified copies of every such agreement shall be Certified copies to Minister sent to the Minister and shall take effect upon written acknowledgement of receipt of the agreement by the Minister. 1957, c. 71, s. 12, *part*; 1958, c. 59, s. 9.

**611.**—(1) Where adjoining owners are unable to agree to Disagreement on boundary operations carry on mining operations within the distances from the property boundary mentioned in subsection 1, application may be made to the Minister by either owner requesting the appointment of a committee to investigate in what manner and within what distances from the boundary mining operations may be carried on.

(2) Upon receipt of an application under subsection 1, the Appointment of committee Minister may appoint a committee of three disinterested persons, one of whom shall be designated chairman, who are competent to investigate mining conditions at the boundary.

(3) The committee so appointed shall hear representations Duty of committee from the adjoining owners and conduct such investigation of mining conditions on the adjoining mining properties as may be necessary at a time or times named by the Minister.

Report of  
committee

(4) Upon completion of their investigation, the committee shall forthwith submit a report in writing to the Minister with recommendations concerning terms and conditions of mining operations at the boundary.

Order of  
Minister

(5) Upon receipt of the report of the committee, the Minister shall issue an order establishing the terms and conditions to be observed in mining operations at the boundary and shall fix the costs of the committee to the adjoining owners. 1957, c. 71, s. 12, *part*.

Suspected  
breach or  
trespass of  
party wall

**612.**—(1) Where the owner of a mine or mining property has reason to believe that a breach has been made in or a trespass has been committed with respect to the party wall between his mine or mining property and an adjoining mine or mining property, application may be made to the Minister by the owner for the appointment of a committee to examine the party wall and enter the adjoining mines or mining properties with an assistant or assistants and use where necessary the workings and appliances thereof.

Appoint-  
ment of  
committee

(2) Upon receipt of an application under subsection 1, the Minister may appoint a committee of three disinterested persons, one of whom shall be designated chairman, who are competent to conduct such examination of the party wall as may be necessary.

Duty of  
committee

(3) The committee so appointed shall conduct such examination of the party wall as may be necessary at a time or times named by the Minister.

Report of  
committee

(4) Upon completion of the examination, the committee shall forthwith submit a report of its findings in writing to the Minister.

Costs

(5) Upon receipt of the report of the committee, the Minister shall fix the costs of the committee to one or both owners.

Breach of  
party wall

(6) Where a breach has been made in a party wall of a mine by the owner of an adjoining mine, or by his employees or agents, without the permission in writing of the owner of the first-mentioned mine or without authority under this Act, the Minister may make an order directing the offending owner to close the breach permanently or to carry out such measures as the Minister deems necessary to prevent water flowing into the mine of the owner complaining of the breach.

Minister  
may  
authorize  
entry

(7) Where work has been discontinued in the mine of the offending owner or where expedient for any other reason, the Minister may authorize the owner complaining of the breach, his employees or agents, to enter the mine and works of the



offending owner to erect bulkheads and carry out such measures as the Minister deems necessary to protect the mine of the owner complaining of the breach from damage and his employees and agents from danger from accumulations of water in the mine of the offending owner. 1957, c. 71, s. 12, *part*.

**613.** For good cause shown and upon such terms as seem just, the Minister may vary or rescind an order made under section 611 or 612. 1957, c. 71, s. 12, *part*. Minister may vary or rescind order

#### BRINE WELLS

**614.—(1)** In this section,

Interpre-  
tation

(a) "brine well" means a hole or opening in the ground for use in brining;

(b) "brining" means the extraction of salt in solution by any method.

(2) No person shall drill or bore a brine well except under the authority of a permit in writing issued by the Minister upon application therefor in the prescribed form. Permit to bore or drill a brine well

(3) A permit shall not be issued,

Permits  
not issued

(a) to authorize a person to drill or bore a brine well on property in which he does not own, hold or lease or is not otherwise entitled to the mining rights; or

(b) where the proposed brine well is nearer the boundary of such property than 500 feet.

(4) The chief engineer may reduce or extend the distance referred to in clause *b* of subsection 3 where in his opinion it is advisable to do so and shall notify the applicant of any such reduction or extension within thirty days from the date upon which the application for the permit is filed. Location of brine well

(5) A permit is subject to the condition that the brine well in respect of which it is issued is bored or drilled in the location described in the permit. Condition of permit

(6) A permit shall be issued or refused within thirty days from the date on which the application therefor is filed, except that, where notice has been given by the chief engineer under subsection 4, the permit shall be issued upon the receipt by the Minister of the applicant's consent thereto. Time for issuance of permit

(7) Where a person drills or bores a brine well, he shall forward a log of the drilling or boring on the prescribed form in duplicate to the chief engineer within thirty days of the completion of the drilling or boring operations, and, upon his request in writing, the log shall be confidential for a period of six months. Log of drilling operations

Protection  
of water  
horizons

(8) A person boring or drilling a brine well shall take such reasonable measures as are necessary to control the infiltration of water from one horizon to any other horizon that may be penetrated during the drilling or boring operations.

Protection  
of deposits

(9) All brine wells shall be cased and equipped so as to reasonably ensure against the uncontrolled flow of oil, natural gas, brine or water.

Standard  
of casing  
and equip-  
ment

(10) Casing and equipment shall be in good condition and of a thickness and strength adequate to withstand any fluid pressure to which they might normally be subjected.

Plugging of  
abandoned  
wells

(11) Where practicable, all brine wells shall be plugged by the person operating them before being abandoned in a manner that will,

(a) reasonably ensure that salt horizons and potential oil or natural gas producing horizons are protected; and

(b) retain water and brine in their original formations.

Report of  
proposed  
plugging

(12) Before commencing to plug a brine well, the person proposing to carry out the plugging operations shall report the particulars thereof to the chief engineer in the prescribed form.

Record of  
plugging  
operations

(13) Where a person plugs a brine well, he shall forward a record of the plugging in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the plugging operations. 1959, c. 60, s. 12 (1).

#### NOTICE OF NON-FATAL ACCIDENTS

Notice of  
accident

**615.** Where, in or about a mine, metallurgical works, quarry, or a sand, clay or gravel pit, an accident occurs that causes fracture or dislocation of any bones of the body, or any other injury that in the opinion of the attending physician may result in the injured person being incapacitated for work for at least five days, to a person employed therein, the owner, agent, manager or superintendent shall within three days of the accident send notice in writing to the engineer resident in that part of Ontario in which the mine, works, quarry or pit is situate on the form prescribed for such purpose. 1957, c. 71, s. 12, *part.*

#### NOTICE OF SPECIAL OCCURRENCES

Idem

**616.**—(1) Where in or about a mine,

(a) an accident involving the hoist, sheaves, hoisting rope, shaft or winze conveyance, or shaft or winze timbering;

- (b) an explosion or fire involving the air compressor, air receiver or compressed air line;
- (c) an inrush of water from old workings or otherwise;
- (d) a failure of an underground dam or bulkhead, as defined by subsection 1 of section 202;
- (e) an outbreak of fire below ground or an outbreak of fire above ground if it endangers any structure of the mine plant;
- (f) a premature or unexpected explosion or ignition of explosives;
- (g) an asphyxiation effecting a partial or total loss of physical control;
- (h) a flammable gas in the mine workings; or
- (i) an unexpected and non-controlled extensive subsidence or caving of mine workings,

occurs, whether or not loss of life or personal injury is caused thereby, the owner, agent, manager or superintendent of the mine shall, within the twenty-four hours next after the occurrence, send notice in writing in duplicate to the district engineer resident in that part of Ontario in which the mine is situate and shall furnish, upon request, such particulars in respect thereof as the engineer requires.

(2) Where in or about a mine an outbreak of fire occurs that endangers the health or safety of one or more persons and the services of the mine rescue stations are required, the owner, agent, manager or superintendent shall immediately notify the rescue station superintendent and the district engineer resident in that part of Ontario in which the mine is situate. Notice of occurrence of fire and need of rescue equipment

(3) Where a rockburst occurs, whether or not loss of life or personal injury is caused thereby, and its location is determined as being within the workings of a mine, the owner, agent, manager or superintendent of the mine shall, within the twenty-four hours next after the location of the burst has been determined, send notice in writing to the district engineer resident in that part of Ontario in which the mine is situate and shall furnish, upon request, such particulars with respect thereto as the engineer requires. Rockburst

(4) A record of the occurrence of all rockbursts at a mine shall be kept showing, as far as possible, the time, location, extent of the burst, any injury to persons and any other information pertaining to the burst, and such record shall be available to an engineer at all times. 1957, c. 71, s. 12, *part*. Record of rockbursts



## OTHER NOTICES AND INFORMATION

Written  
notice by  
owner or  
agent

**617.**—(1) The owner or agent shall give or cause the manager or superintendent of a mine to give written notice to the chief engineer and to the district engineer resident in that part of Ontario in which the mine is situate,

- (a) of the intended installation of a mine hoisting plant, power plant or treatment plant under the jurisdiction of the Department and the name and address of the person in charge of the operation at least fourteen days prior to the commencement of work on such installation and the notice shall also give the lot, concession and township or claim numbers on which operations are to commence and the specifications and layout of the plant;
- (b) of the connection or reconnection of any mining electrical equipment with a source of electrical energy controlled by any other person at least fourteen days prior to the connection or reconnection;
- (c) of the commencement or resumption, after an interruption of one month or more, of mining operations within fourteen days after the commencement or resumption; and
- (d) of the closing down of the mine and that,
  - (i) the requirements of subsection 1 of section 168 as to the fencing of the top of the shaft, entrances from the surface, pits and openings,
  - (ii) the requirements of section 225 as to the disposal of explosives,
  - (iii) the requirements of section 373 as to the abandonment of a shaft compartment for hoisting purposes and as to the removal and disposition of hoisting ropes,
  - (iv) the requirements of section 517 as to the disconnection of the supply station from the power source and notification of same to the chief engineer, and
  - (v) the requirements of subsections 7 and 8 of section 619 as to the filing of plans and sections,

have been complied with within fourteen days of the closing down.

Information  
for engineer

(2) The owner, manager or superintendent of a mine shall furnish to the engineer resident in that part of Ontario in

which the mine is situate, all information which the engineer requires for the purposes of his returns. 1957, c. 71, s. 12, *part*.

#### STATISTICAL RETURNS

**618.**—(1) For the purpose of their tabulation under the <sup>Statistical</sup> instructions of the Minister, the owner or agent of every <sup>returns</sup> mine, quarry or other works to which this Act applies shall, on or before the 31st day of March in every year, send to the Department on the forms supplied a correct return for the year that ended on the 31st day of December next preceding, showing the number of persons ordinarily employed below and above ground respectively, the total amount of wages paid during the year, the quantity in standard weight of the minerals dressed, and of the undressed mineral that has been sold, treated or used during such year, and the value or estimated value thereof, and such other particulars as the Minister by regulation prescribes.

(2) The owner or agent of every metalliferous mine shall, <sup>Monthly or</sup> if required, make a similar return for the month or quarter <sup>quarterly</sup> <sup>returns</sup> at the end of each month or quarter of the calendar year.

(3) Every owner or agent of a mine, quarry or other works <sup>Offence</sup> who fails to comply with this section, or makes a return that is to his knowledge false in any particular, is guilty of an offence against this Act. 1957, c. 71, s. 12, *part*.

#### MINE PLANS

**619.**—(1) At every mine, the owner or manager shall <sup>Plans to</sup> cause the following plans on a scale acceptable to the chief <sup>be kept</sup> engineer to be kept up to a date not more than six months last past:

1. A surface plan showing the boundaries of the property, all lakes, streams, roads, railways, electric power transmission lines, main pipe lines, buildings, shaft openings, adits, open surface workings, diamond-drill holes, outcroppings of rock and dumps and tailing disposal sites.
2. Underground plans of each level and section showing all underground workings, including shafts and tunnels, diamond-drill holes, dams and bulkheads, and each level plan shall be shown on a separate drawing.
3. Vertical mine sections at suitable intervals and at suitable azimuths, showing all shafts, tunnels, drifts, stopes and other mine workings in relation to the surface, including the location of the top of the bed-

rock, surface of the overburden and the bottom and surface of any known water course or body of water, and each section shall be shown on a separate drawing.

4. Adequate ventilation plans, showing the direction and volume of the main air currents, the location of permanent fans, ventilation doors and stoppings and connections with adjacent mines.

Idem

(2) The owner or manager of every mine in which electricity is used underground shall keep or cause to have kept up to a date not more than six months last past an adequate plan or diagram showing on a suitable scale the following information:

1. The position of all fixed electrical apparatus in the mine.
2. The routes of all fixed power feeders and fixed branch feeders properly noted and referenced.
3. The rating of all electrical feeder control apparatus and equipment.

Idem

(3) Such plans or diagrams shall be available to the engineer at all times and copies of the plans or diagrams shall be furnished him upon request.

Marking  
subsequent  
progress  
on plan

(4) On any examination or inspection of a mine, the owner, manager or superintendent shall, if required, produce to an engineer or other person authorized by the Minister or the Deputy Minister all plans and sections of the workings referred to in subsections 1, 2 and 3.

Idem

(5) The owner, manager or superintendent shall, if required by an engineer or other person authorized by the Minister or Deputy Minister, cause to be marked on such plans and sections the progress of the mine up to the time of the examination or inspection, and shall furnish him with a copy or tracing thereof.

Plan of  
working  
mines to  
be filed

(6) Certified copies of the plans required by paragraph 2 subsection 1 and mine sections showing all shafts as required by paragraph 3 of subsection 1 shall be made and filed in the Department on or before the 31st day of March in each year, showing the workings of the mine up to and including the 31st day of December next preceding.

Plans to  
be filed  
before  
abandon-  
ment

(7) Before a mine or a part of a mine is abandoned, closed down or otherwise rendered inaccessible, all underground plans and sections referred to in paragraphs 2 and 3 of subsection 1 shall be brought up to date and a certified copy filed in the Department.



(8) Before work at a mine ceases, the surface plan referred to in paragraph 1 of subsection 1 showing all openings to underground workings shall be brought up to date and a certified copy filed in the Department.

(9) The owner of every mine, quarry or other works to which this section applies is responsible for compliance with the provisions thereof and every owner or other person who fails to comply with any of the provisions of this section, or who produces to an engineer or other authorized person, or files or causes to be produced or filed a plan that to his knowledge is false in any particular, is guilty of an offence against this Act. <sup>Responsibility of owner</sup>

(10) Every such plan shall be treated as confidential information for the use of the officers of the Department and shall not be exhibited nor shall any information contained therein be imparted to any person except with the written permission of the owner or agent of the mine. 1957, c. 71, s. 12, *part*. <sup>Plans to be treated as confidential</sup>

#### POWERS AND DUTIES OF ENGINEERS

**620.**—(1) It is the duty of an engineer and he has power, <sup>Powers of engineer</sup>

- (a) to make such examination and inquiry as he deems necessary to ascertain whether this Act is complied with, and to give notice to the owner or agent in writing of any particulars in which he considers the mine or any part thereof, or any matter, thing or practice, to be dangerous or defective or contrary to this Act, and to require the same to be remedied within the time named in the notice;
- (b) to enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but so as not to unnecessarily impede or obstruct the working of the mine;
- (c) to order the immediate cessation of work in and the departure of all persons from any mine or part thereof that he considers unsafe, or to allow persons to continue to work therein on such precautions being taken as he deems necessary; and
- (d) to exercise such other powers as he deems necessary for ensuring the health and safety of miners and all other persons employed in or about mines, smelters, metallurgical and mining works.

(2) It is the duty of an engineer to make a report of every examination and inquiry made in the course of his duty during the year to the Minister, the Deputy Minister or the chief <sup>Reports of engineer</sup>

engineer as required by the circumstances immediately upon the completion of the examination or inquiry. 1957, c. 71, s. 12, *part*.

Special  
report

**621.**—(1) The Minister may direct an engineer to make a special report with respect to any accident in or about a mine that has caused the loss of life or injury to any person, or with respect to any condition in or about a mine.

Engineers  
may take  
evidence

(2) In conducting the inquiry, an engineer has power to compel the attendance of witnesses and the production of books, documents and things, and to take evidence upon oath. 1957, c. 71, s. 12, *part*.

Offence

**622.**—(1) Non-compliance with a written order of an engineer issued in accordance with section 620 shall be deemed an offence against this Part.

Idem

(2) Failure to give written notice of the completion of any work in accordance with a written order of an engineer issued under section 620 shall be deemed an offence against this Part. 1957, c. 71, s. 12, *part*.

## PART X

### REFINERY PROVISIONS

Interpre-  
tation

**623.** In this Part, "refinery" means apparatus or equipment that may be used for the refining, retorting, smelting, assaying or treating by any other method, of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. R.S.O. 1950, c. 236, s. 173.

Refinery  
licence

**624.** No person shall own, operate, use or have a refinery in his possession, under his control or upon any property of which he is the owner, licensee, lessee or tenant unless a refinery licence has been granted in respect of such refinery, except that no refinery licence shall be required in respect of a refinery for which a certificate of exemption has been issued. R.S.O. 1950, c. 236, s. 174.

Powers of  
Minister as  
to refinery  
licences

**625.**—(1) The Minister may,

- (a) issue and renew refinery licences and certificates of exemption;
- (b) refuse to issue or renew a refinery licence or certificate of exemption, or suspend, cancel or revoke a refinery licence or certificate of exemption for any reason that he deems sufficient in the public interest;

- (c) prescribe the forms of refinery licences, certificates of exemption, applications therefor and renewals thereof; and
- (d) prescribe the fee payable upon the issue and renewal of refinery licences and certificates of exemption.

(2) Every refinery licence and certificate of exemption expires on the 31st day of March next following the issue thereof and every renewal of a refinery licence or certificate of exemption expires on the 31st day of March next following the expiration of the refinery licence or certificate of exemption or the last renewal thereof. R.S.O. 1950, c. 236, s. 175. Term of licence and certificate of exemption

**626.**—(1) A certificate of exemption may be issued in respect of a refinery where the Minister is satisfied that the refinery is not maintained or used for the refining, retorting, smelting, assaying or treating of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein or is used only for educational purposes. Certificate of exemption

(2) No person who owns or has in his possession, under his control or upon any property of which he is the owner, licensee, lessee or tenant a refinery in respect of which a certificate of exemption has been issued shall permit the refinery to be operated or used nor shall he or any other person operate or use the refinery for the refining, retorting, smelting, assaying or treating of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. R.S.O. 1950, c. 236, s. 176. Use of refinery

**627.** Every person who contravenes any of the provisions of this Part is guilty of an offence and is liable to a fine of not less than \$10 and not more than \$500 or to imprisonment for a term of not more than one year, or to both fine and imprisonment. R.S.O. 1950, c. 236, s. 177. Offence

**628.** This Part applies notwithstanding that the owner or operator of a refinery is the holder of a licence issued under any Act. R.S.O. 1950, c. 236, s. 178. Application of Part

**629.** The Minister may appoint any person to conduct an inquiry into any charge or complaint that a person has contravened any of the provisions of this Part, or into any matter or thing connected with or arising out of the operation of this Part, and such person has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. R.S.O. 1950, c. 236, s. 179. Commission of inquiry



## PART XI

## OFFENCES, PENALTIES AND PROSECUTIONS

## Offences

**630.**—(1) Every person who,

- (a) prospects, occupies or works any Crown lands or mining rights for minerals otherwise than in accordance with this Act;
- (b) performs or causes to be performed on any Crown lands or on any lands where the mining rights are in the Crown any boring by diamond or other core drill for the purpose of locating valuable mineral in place except where such Crown lands or mining rights have been staked out and recorded as a mining claim in accordance with this Act;
- (c) wilfully defaces, alters, removes or disturbs any post, stake, picket, boundary line, figure, writing or other mark lawfully placed, standing or made under this Act;
- (d) wilfully pulls down, injures or defaces any rules or notice posted up by the owner or agent of a mine;
- (e) wilfully obstructs the Commissioner or any officer appointed under this Act in the execution of his duty;
- (f) being the owner or agent of a mine, refuses or neglects to furnish to the Commissioner or to any person appointed by him or to any officer appointed under this Act the means necessary for making an entry, inspection, examination or inquiry in relation to a mine under this Act other than Part IX;
- (g) unlawfully marks or stakes out in whole or in part a mining claim, a placer mining claim, or an area for a boring permit;
- (h) wilfully acts in contravention of this Act, other than Part IX or Part X, in any particular not hereinbefore set forth;
- (i) wilfully contravenes any provision of this Act or any regulation for the contravention of which no other penalty is provided;
- (j) wilfully makes any material change in the wording or numbering of a miner's licence after its issue; or

- (k) attempts to do any of the acts mentioned in the foregoing clauses,

is guilty of an offence against this Act and is liable to a fine of not more than \$20 for every day upon which the offence occurs or continues. R.S.O. 1950, c. 236, s. 180; 1956, c. 47, s. 12; 1957, c. 71, s. 13.

(2) Every person who knowingly makes a false statement <sup>False statements</sup> in an application, certificate, report, statement or other document filed or made as required by or under this Act or the regulations is guilty of an offence and is liable to a fine of \$500 or to imprisonment for a term of not more than six months, or both. 1955, c. 45, s. 23.

**631.**—(1) No person shall construct or cause to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals that may result in the escape or release into the open air of sulphur, arsenic or other fumes in quantities that may injure trees or other vegetation unless and until the site of the plant has been approved by the Lieutenant Governor in Council. <sup>Smelters</sup>

(2) Every person who constructs or causes to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals without the approval of the Lieutenant Governor in Council and sulphur, arsenic or other fumes escape or are released therefrom into the open air and injure trees or other vegetation is guilty of an offence <sup>Offence</sup> and is liable to a fine of not more than \$1,000 for every day upon which such fumes escape or are released therefrom into the open air. 1957, c. 71, s. 14.

**632.** Every person who wilfully neglects or refuses to obey any order or award of the Commissioner, except for the payment of money, is, in addition to any other liability, liable to a fine of not more than \$250 and, upon conviction thereof, is liable to imprisonment for a term of not more than six months unless the fine and costs are sooner paid. R.S.O. 1950, c. 236, s. 181; 1956, c. 47, s. 12. <sup>Disobeying order or award of Commissioner</sup>

**633.**—(1) No person who,

- (a) carries on the business of mining or dealing in mines, mining claims, mining lands, or mining rights, or the shares, stocks, or bonds of a mining company; or
- (b) acts as broker or agent in or for the disposal of mines, mining claims, mining lands, or mining rights, or of any such shares, stocks or bonds; or

<sup>Use of word "Bureau" prohibited</sup>

(c) offers or undertakes to examine or report on a mine, mining claim, mining land or mining rights,

shall use the word "Bureau" as the name or title or part of the name or title under which he acts or carries on business.

Offence

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and is liable to a fine of not more than \$20 for every day upon which the offence occurs or continues. R.S.O. 1950, c. 236, s. 182.

Penalty for offence against Part IX

**634.**—(1) An owner, agent or other person who contravenes any provision of Part IX is guilty of an offence and is liable to a fine of not more than \$1,000.

Additional penalty for continuing offence

(2) Where the Deputy Minister or an inspector has given written notice to an owner or agent or a person engaged or employed in or about a mine that an offence has been committed against Part IX, such owner or agent or other person is liable to a further fine of not more than \$100 for every day upon which the offence continues after such notice.

Imprisonment

(3) An owner, agent or other person is, upon conviction, liable to imprisonment for a term of not more than three months unless the fine and costs are sooner paid.

Imprisonment of offender against Part IX in certain cases

(4) Where the offence is one that might have endangered the safety of those employed in or about the mine or caused serious personal injury or dangerous accident, and was committed wilfully by the personal act, default or negligence of the accused, every person who is guilty of an offence against Part IX is, in addition to or in substitution for any fine that may be imposed, liable to imprisonment with or without hard labour for a term of not more than three months. R.S.O. 1950, c. 236, s. 183.

Instituting prosecutions for offences

**635.**—(1) No prosecution shall be instituted for an offence against Part IX or Part X or any regulation made in pursuance thereof except,

(a) by an inspector;

(b) by direction of the county or district Crown attorney;  
or

(c) by the leave in writing of the Attorney General,  
or for an offence against any other provision of this Act or of any regulation made in pursuance thereof except,

(d) by or by leave of the Commissioner or a recorder;

(e) by direction of the county or district Crown attorney;  
or



(f) by leave of the Attorney General. R.S.O. 1950, c. 236, s. 184 (1); 1956, c. 47, s. 12.

(2) No person not being the actual offender is liable in respect of such offence, if he proves that he did not participate in the contravention of the provision for a breach of which he is charged and that he was not to blame for the breach and that according to his position and authority he took all reasonable means in his power to prevent the breach and to secure compliance with the provisions of Part IX or Part X. When person not actual offender not liable

(3) The burden of proving that the provisions of sections 173 to 604 have been suspended is upon the person charged with a contravention thereof and any such suspension may be proved by the evidence or certificate of an inspector. R.S.O. 1950, c. 236, s. 184 (2, 3). Onus of proof

**636.** Except as to offences against section 14, every prosecution for an offence against or for the recovery of a penalty imposed by or under the authority of this Act shall take place before a magistrate or two justices of the peace having jurisdiction in the county or district in which the offence was committed or before the Commissioner and, save as herein otherwise provided, *The Summary Convictions Act* applies to every such prosecution. R.S.O. 1950, c. 236, s. 185; 1956, c. 47, s. 12. Procedure on prosecutions

## PART XII

### ENLISTMENT FOR ACTIVE SERVICE

**637.** All other provisions of this Act are subject to the provisions of this Part. R.S.O. 1950, c. 236, s. 186. Application of Part

**638.** The miner's licence of a person who has enlisted or enrolled for active service at home or abroad against the Queen's enemies shall be deemed to be subsisting and in force until six months after the date of his discharge from such service, or the 31st day of March following such date of discharge, whichever is the later date. R.S.O. 1950, c. 236, s. 187. Miner's licence of enlisted licensee

**639.**—(1) Subject to subsections 2, 3 and 4, forfeiture or loss of rights under subsection 1 of section 91, except clauses *a* and *b*, is avoided if the recorded holder of an interest in a mining claim has enlisted or enrolled for active service at home or abroad against the Queen's enemies. Effect of enlistment on forfeiture

(2) In the case of non-performance of work, the period currently to be performed at the date of enlistment shall be Performance of work

performed not later than one year from the date of discharge from active service, two years from such date in the case of the next succeeding period, three years from such date in the case of a second succeeding period, four years from such date in the case of a third succeeding period and five years from such date in the case of a fourth succeeding period.

Application  
for patent

(3) Where all the work required to be performed upon a claim has been performed prior to the date of enlistment, application for a patent or lease shall be applied for not later than one year from the date of discharge from active service.

Filing  
report

(4) The report required by subsection 3 of section 83 shall be made not later than ten days after the expiration of the time permitted for the performance of the work by this section.

Where  
recorded  
holder on  
active  
service

(5) Where the recorded holder has enlisted or enrolled for active service and subsequently transfers his interest, subsections 2, 3 and 4 apply *mutatis mutandis* to the transferee, but the time for performing work and making application for patent or lease shall be computed from the date of such transfer. R.S.O. 1950, c. 236, s. 188.

Purchase  
money or  
rental

**640.**—(1) Where the applicant for a patent or lease of a mining claim is a person who enlisted or enrolled for active service at home or abroad against the Queen's enemies, he shall not be required to pay the purchase money or the first year's rental, as the case may be, but, where he is not the sole applicant, this exemption applies only to a part of the purchase money or the first year's rental, as the case may be, that is in proportion to his interest in the claim. R.S.O. 1950, c. 236, s. 189 (1).

Section not  
to apply to  
more than  
three claims

(2) In the case of each person who has enlisted or enrolled for active service this section applies to not more than three claims whether or not he is the sole owner thereof, and the area of each claim shall not exceed the area prescribed in section 51. R.S.O. 1950, c. 236, s. 189 (2); 1952, c. 59, s. 7.

Section to  
apply to  
personal  
representa-  
tives and  
beneficiaries

(3) The exemptions provided by this section apply to the personal representatives or beneficiaries of a person coming under subsection 1. R.S.O. 1950, c. 236, s. 189 (3).

Where  
ss. 638-640  
apply

**641.** Sections 638 to 640 apply only,

(a) where the ownership or interest in a mining claim of a person on war service was acquired prior to the time such person enlisted or enrolled for active service; and

- (b) where the recorder of the mining division in which the claims are situate has notice that the holder of such claims or of an interest therein has enlisted or enrolled for active service. R.S.O. 1950, c. 236, s. 190.

### PART XIII

## GENERAL PROVISIONS

### LIEN FOR WAGES

**642.**—(1) Except as provided in this Act, *The Mechanics' Lien Act* applies to mines, mining claims, mining lands and works connected therewith. Application of R.S.O. 1960, c. 233

(2) Where the lands and mining rights have not been patented, the registration provided for in *The Mechanics' Lien Act* shall be in the office of the recorder. Registration of lien

(3) When the claim is for wages in connection with a mine, mining claim, mining lands or works connected therewith, in addition to the rights and remedies afforded by *The Mechanics' Lien Act*, the claimant has a lien upon any other property of the owner in or on such mine, mining claim, mining land or works for a sum not exceeding thirty days wages, and this claim may be enforced under such Act. R.S.O. 1950, c. 236, s. 191 (1-3). Lien where claim for wages

(4) When the Commissioner is satisfied that a claim for lien recorded as provided in this section is not made in good faith or is made for some improper purpose or where the owner is unduly embarrassed thereby, he may make an order cancelling the lien upon such terms as to security or otherwise as he deems proper. R.S.O. 1950, c. 236, s. 191 (4); 1956, c. 47, s. 12. Cancellation of claim

(5) A lien upon unpatented lands does not affect the rights of the Crown. R.S.O. 1950, c. 236, s. 191 (5). Lien on unpatented lands

### PRESERVATION OF PEACE

**643.** The Lieutenant Governor in Council may declare by proclamation that *The Public Works Peace Preservation Act*, being chapter 36 of the Revised Statutes of Ontario, 1914, to be in force in any mining division or in any defined locality therein, and upon and after the date named in the proclamation section 1 and sections 3 to 9 of that Act take effect within the mining division or locality designated in the proclamation, and that Act applies to all persons employed in any mine or in mining within the limits of such mining division or locality in the same manner and to the same extent as nearly as may be as if the persons so employed had been specially mentioned and referred to in such Act. R.S.O. 1950, c. 236, s. 192. Powers of Lieutenant Governor in Council R.S.O. 1914, c. 36



## EXPLORATORY DRILLING

Purchase  
of drills for  
prospecting  
purposes

**644.** The Minister may, out of the moneys that are appropriated by the Legislature for the purpose, purchase such diamond drills as he deems necessary for use in prospecting for ore or minerals under regulations made by the Lieutenant Governor in Council, which may provide,

- (a) for the control and working of the drills under the direction of a person employed for the purpose by the Department;
- (b) for the payment of freight charges where the drills are used upon mines or land other than those owned by the Crown;
- (c) as to applications for use of the drills and the method of dealing therewith;
- (d) as to charges for use of the drills and for damages thereto, or wear and tear connected therewith,

and otherwise as the Lieutenant Governor in Council deems proper. R.S.O. 1950, c. 236, s. 193.

Assaying  
and testing  
laboratories

**645.** The Minister, out of the moneys that are appropriated by the Legislature for the purpose, may establish, maintain and operate assaying and testing laboratories for sampling, assaying, testing, analysing or determining rocks, ores, minerals and other substances. R.S.O. 1950, c. 236, s. 194.

## RIGHTS AND EASEMENTS

Rights over  
other lands  
that may be  
conferred by  
Commissioner;

**646.**—(1) Where required for or in connection with the proper working of a mine, mill for treating ore or quarry, the owner, lessee or holder of it or the person entitled to work it may, subject as hereinafter provided, obtain and have vested in him by order of the Commissioner, made after hearing such parties interested as appear or on appeal from him,

- (a) the right to open, construct, put in, maintain and use ditches, tunnels, adits, pipes, conduits, flumes and other works through, over or upon any land for the drainage, conveyance or passage of water;
- (b) the right to discharge water upon any land or by, through or into any existing means of drainage whether natural or artificial;
- (c) the right to drain off, lower or divert the water of any lake, pond, river, stream or watercourse, or any other water, notwithstanding that the water or part thereof may be on the land of or owned by any other

person or that any other person may have rights or interests in or to such water or the use thereof;

- (d) the right to collect and dam back water, notwithstanding that it may overflow other land;
- (e) the right to take or divert and use for or in connection with the working of his own mine or quarry and bring thereto for such use any specified water, and to construct and maintain dams and other works and do all other things necessary or convenient therefor;
- (f) rights of way or passage through or over any land or water, and the right to construct, improve, maintain and use suitable roads, tramways, aerial tramways, channels, waterways, passages and other means of transit and transportation upon, through or over any land or water, together with such other rights of entry upon and use of land and water as may be necessary or convenient therefor;
- (g) the right to transmit electricity or any other kind of power, or have it transmitted, through or over any land or water in any form or manner and to do everything necessary or convenient therefor;
- (h) the right to enter upon and use for or in connection with the working of his own mine or quarry a specified area of other land;
- (i) the right to deposit tailings, slimes or other waste products upon any land, or to discharge the same into any water, the effects of such deposit or discharge not being injurious to life or health.

(2) No such right shall be granted unless any injury or damage caused to any other person thereby can be adequately compensated for, nor unless in all the circumstances it seems reasonable and fitting to grant the right, nor until, in the case where injury or damage has already been suffered, compensation has been determined by the Commissioner, and the amount thereof paid, and in the exercise of any right so granted no unnecessary injury or damage shall be done to the land, property, rights or interests of other persons, and all injury and damage that may be caused to any person by the granting and exercise of any right obtained under this section shall be fully compensated for.

(3) The order granting the right shall fix such compensation, <sup>How fixed</sup> or shall provide for the ascertainment thereof, and shall contain any provisions that are deemed proper for securing the same and for protecting the rights and interests of any

person whose land, property, rights or interests are affected or endangered, and if deemed proper may require the applicant to make grants or concessions to or construct works or do any other thing for, or for the benefit of, any such person or his land or property, and such order may in all cases be upon such terms, and may grant the right upon such conditions and for such time as are deemed proper.

Material to  
be filed on  
application

(4) In every application for such an order, the applicant, in addition to anything else required or directed, shall file in duplicate with the Commissioner a clear and precise statement of the right or rights being applied for, of the land or property affected and the owner or owners thereof so far as they can be ascertained, a map or plan of the locality showing the land and water involved, and definite and detailed plans and specifications of the works or things proposed to be constructed or done and, for the purpose of preparing the same, the Commissioner may authorize the applicant, his engineers and assistants to enter upon the land of any other person and make such examinations and measurements as may be necessary, and such statement, map or plan and plans and specifications may, by order, be amended or altered or modified at any stage of the proceedings and the Commissioner may give directions as to the notice to be given to the parties interested, the time and manner of service and the particulars to be furnished to such parties respectively. R.S.O. 1950, c. 236, s. 195 (1-4); 1956, c. 47, s. 12.

Rights  
conferred to  
run with  
lands

(5) This section applies to and against all patented and unpatented lands and the word "lands" in this section includes any right or interest in lands.

Idem

(6) Subject to any change therein or rescission thereof by subsequent order of the Commissioner, all rights and benefits created by any order of the Commissioner heretofore or hereafter made under this section run with and are appurtenant and incident to the lands thereby benefited and all burdens and obligations created or imposed by any such order run with and are binding on all lands in respect of which they were created or imposed and such order continues valid and binding in respect of all lands thereby affected notwithstanding forfeiture thereof by the Crown or sale thereof because of unpaid taxes, it being expressly declared that the Crown or any municipality or any person acquiring such lands is bound by such order in the same manner and to the same extent as the owner thereof at the time such order was made.

Idem

(7) Every such order shall contain proper descriptions of the lands thereby benefited and of all other lands thereby affected sufficient for purposes of registration, and there shall



be attached thereto a plan or plans showing clearly the lands thereby benefited and all other lands thereby affected. 1954, c. 53, s. 10, *part*; 1956, c. 47, s. 12.

(8) Notice of hearing of all applications under this section shall be given to the Minister in the same manner as notice to any other interested person. Notice

(9) A copy of every order made under this section, certified to be a true copy under the hand and seal of the Commissioner, shall be immediately filed by the applicant with the Minister and in the office of the recorder of the division in which the lands affected are situate, and, if any patented lands are thereby affected, a copy of such order so certified shall be filed in the land titles office or registry office for the district in which the lands are situate. Copy to be  
filed with  
Minister

(10) The recorder or local master of titles or registrar, as the case may be, shall enter particulars of such order against the titles of the lands thereby affected. Particulars  
to be entered

(11) Where unpatented mining claims affected by any such order are subsequently patented or leased, a copy of such order so certified shall be sent to the land titles office by the Department with the grant or lease. Where  
Department  
to send copy

(12) Unless such order is so filed in the land titles office or registry office for the district in which the lands are situate, a purchaser for value without notice of patented lands affected by any such order is not bound thereby. 1954, c. 53, s. 10, *part*; 1956, c. 47, s. 10. Failure  
to file

(13) The Commissioner, for good cause shown and on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under the authority of this section. R.S.O. 1950, c. 236, s. 195 (7); 1956, c. 47, s. 12. Commis-  
sioner may  
change order  
or award

(14) Rights granted under this section shall not be exercised until the time for appealing from the order granting the rights has expired or, where an appeal is entered, until the appeal is disposed of, but from and after such time, subject to any restriction or postponement provided for in the order, the person to whom any such right is granted may enter upon any land or property and exercise the right so granted, and any person who after such time obstructs the exercise of any such right or wilfully neglects or refuses to obey any order made under this section is guilty of an offence against this Act and, in addition to any other liability, is liable to a fine of not more than \$250 for each day such obstruction, neglect or refusal continues. R.S.O. 1950, c. 236, s. 195 (8). Rights  
not to be  
exercised  
until after  
expiration  
of time for  
appeal

## REGULATIONS

## Regulations

**647.**—(1) The Lieutenant Governor in Council may make regulations for,

- (a) the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands heretofore or hereafter sold or granted as mining lands or recorded as mining claims or locations, and for the opening, construction, maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or land for the conveying and passage of water for mining purposes;
- (b) to meet cases that may arise for which no provision is made in the Act, or when he deems the provision made to be ambiguous or doubtful;
- (c) the imposition of penalties of not more than \$200 or of not more than three months imprisonment for the contravention of any such regulations;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Minister  
may issue  
licence,  
lease or  
patent

(2) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as he deems expedient. R.S.O. 1950, c. 236, s. 196.

Transmission  
of electricity  
in mining  
division and  
entering  
on lands  
without  
consent of  
owner

**648.** With the consent of the Lieutenant Governor in Council and on such terms as he sees fit, any company authorized to supply electrical power or energy or compressed air, or both, may from time to time construct, maintain and operate transmission lines, air pipe lines, substations and other conveniences for the transmission of electrical power or energy or compressed air, or both, in and through any mining division, and for any of such purposes may enter upon, take and use any mining lands or any privilege or easement required by such company for such purposes without the consent of the owner thereof, but subject to the payment of such compensation or annual rent for the privilege or easement required and authorized as is determined by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may from time to time revoke or vary the terms upon which any right conferred under this section may be exercised. R.S.O. 1950, c. 236, s. 197.

## FEES

**649.** Fees are payable under this Act in accordance with <sup>Fees</sup> the tariff in the Schedule and, except as otherwise mentioned, are for the use of the Province of Ontario. R.S.O. 1950, c. 236, s. 198.

**650.**—(1) Notwithstanding section 649, where an order is made by the Commissioner or on appeal from his decision, <sup>No fee to record order upon direction of Commissioner</sup> and it is in the public interest that the order be recorded, and where the order would not otherwise be recorded, the Commissioner may direct the mining recorder to record the order without fee.

(2) Subsection 1 does not apply to an order made under <sup>Exception</sup> section 92, except an order dismissing an application made under that section. 1959, c. 60, s. 13.

## CANCELLATION OF PATENTS

**651.** Where a patent or lease of mining lands or mining rights is by proceedings in the Supreme Court at the instance of the Crown repealed or avoided, such lands and mining rights thereupon become and are withdrawn from exploration, <sup>Lands and mining rights to be withdrawn from exploration on repeal of patent or lease at instance of Crown</sup> discovery, staking out, lease or sale, and every discovery upon and claim to such lands or mining rights and to the mines or minerals on, in or under such lands made or existing at any time before the repeal or avoidance of the patent or lease become and are void, and such lands, mining rights, mines and minerals are thenceforth vested in the Crown freed and discharged of and from every claim. R.S.O. 1950, c. 236, s. 199.

## FORFEITURE OF LEASES

**652.**—(1) Where the Minister finds that no proof has been submitted that the expenditure for work, as required by <sup>Forfeiture of leases</sup> *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897, or any other Act, upon the lands leased has been made, the Minister, by registered letter directed to the lessee or his assignee at his last known address as recorded in the Department, may call upon the lessee or his assignee to submit such proof by way of affidavit or otherwise within any period not less than thirty days named in the letter and, if after the expiration of such period such proof has not been submitted, the Minister may by notice in *The Ontario Gazette* declare such lease to be forfeited and void, and thereupon all the interests of the lessee, his heirs, executors, administrators and assigns shall be deemed to have ceased and determined, and the land included in such lease are revested in the Crown freed and discharged from every claim.



Minister  
may extend  
time

(2) Notwithstanding anything in *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897, or any other Act, or the expiration of any period of time therein stipulated or the failure to comply with any requirements of any such Act, the Minister may extend the time for the performance of any work upon a mining location leased or patented under the authority of *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897, and the filing of any proof thereof required, but, in the case of lease only, upon failure to perform such work or file such proof within the extended time, the lease may be cancelled as provided by subsection 1.

Proof of  
work per-  
formed

(3) Upon proof of the required work being submitted within such extended time, the Minister may issue a certificate in accordance with the facts and such certificate may be registered in the proper registry or land titles office. R.S.O. 1950, c. 236, s. 200.

#### DEFAULT OF CO-OWNERS, ETC.

Interpre-  
tation

**653.**—(1) In this section, “co-owner” includes co-lessee and co-licensee, and a corporation with share capital and a shareholder thereof shall be deemed to be co-owners.

Default by  
one of  
several  
co-owners,  
etc.

(2) Where lands or mining rights that are subject to rents or expenditures for development work are held by two or more co-owners and the whole of the rents or expenditures has been paid by one or more of them and the other or others has or have neglected or refused to pay his or their portion of the rents or expenditures for a period of four years, the Commissioner, upon the application of any co-owner who has paid the rents or met the expenditures, may make an order requiring the delinquent co-owner or co-owners to pay within three months of the date of the order, or such further time as the Commissioner fixes, his or their proper portion of the rents or expenditures to the co-owner or co-owners who has or have paid the rents or expenditures, together with interest at the rate of 6 per cent per annum compounded yearly, and such costs of the application as are allowed by the Commissioner.

Vesting  
order

(3) The order may be served in such manner as the Commissioner directs, and if at the expiration of the period fixed by the order, or such further time as has been ordered by the Commissioner, it appears to him that payment has not been made in accordance therewith, he may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid the rents or expenditures.

Death of  
delinquent

(4) Where a delinquent co-owner has died either before or after default in respect of his portion and no person has

taken out administration of his estate or has obtained probate of his will, any order made under this section may be directed to and served upon his heirs.

(5) An order made under this section against a corporation shall be directed to the corporation only. Order against corporation

(6) An application under subsection 2 shall be accompanied by a fee of \$25. 1958, c. 59, s. 10. Fee

#### MINERAL RIGHTS UNDER ROADS

**654.**—(1) The corporation of any county or township in that part of Ontario lying south of the French River, Lake Nipissing and the River Mattawa, wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon or under any roads over which the township or county has jurisdiction, if considered expedient so to do. R.S.O. 1950, c. 236, s. 202 (1); 1958, c. 59, s. 11. Sale or lease of mineral rights under roads

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road for at least one month previous to the time fixed for considering the by-law. No sale or lease till after notice

(3) The deed conveyance or lease to the purchaser or lessee under the by-law shall contain a proviso protecting the road for public travel and preventing any user of the granted rights that would interfere with public travel. Sale or lease not to interfere with public travel

(4) In the remaining parts of Ontario, the mines, minerals, and mining rights in, on or under all common and public highways and road allowances are vested in the Crown, and may be sold, leased or otherwise disposed of under this Act. In northern part of Province

(5) Where a mining location or any mining lands adjoin a common and public highway or road allowance and the mineral vein or deposit thereon extends into or under the highway or road allowance, its owner has the right to purchase or lease the mines, minerals and mining rights in, on or under the same, subject to this Act, or where there are mining locations or mining lands on both sides of such highway or road allowance, such rights accrue to the owner or owners on both sides thereof as respects the half of such highway or road allowance adjoining his or their lands. Rights of adjoining landowners

(6) Subsections 4 and 5 do not apply to highways on lands granted before the 1st day of May, 1904, by the Crown under a predecessor of this Act, or in the grant whereof the mines and minerals were not reserved to the Crown. Exception

Patent or  
lease to  
protect  
public travel

(7) The patent or lease of such mines, minerals and mining rights shall contain a proviso protecting the road for public travel and preventing any use of the granted rights that would interfere with public travel unless a road in lieu thereof has been provided and accepted by the municipal corporation having control of the road.

Previously  
acquired  
rights  
preserved

(8) Subsections 4 to 7 do not affect any rights acquired from or any agreement made or entered into with any municipal corporation under this section prior to the 1st day of May, 1904. R.S.O. 1950, c. 236, s. 202 (2-6).

#### SURRENDER OF LANDS

Voluntary  
surrender  
of mining  
lands

**655.** The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act may voluntarily surrender such lands or mining rights to the Crown and thereupon the Minister may cause a notice of determination to be filed in the proper land titles or registry office and thereafter such lands or mining rights are open for prospecting, staking out, sale or lease. R.S.O. 1950, c. 236, s. 203.

#### FORFEITED LANDS

Lands  
forfeited to  
Crown  
R.S.O. 1960,  
cc. 71, 246

**656.** Where mining lands are forfeited to the Crown under *The Corporations Act* or *The Mortmain and Charitable Uses Act*, or any predecessor thereof, the Minister may cause a certificate to be registered in the proper land titles or registry office stating that forfeiture has been effected under that Act and that by reason of such forfeiture the patent, lease or other title whereby such lands were granted has been cancelled and annulled, and upon the registration of the certificate such lands may be dealt with in the manner provided in this Act. 1951, c. 51, s. 4; 1959, c. 60, s. 14.

#### TECHNICAL PROSPECTING

Licence  
to prospect  
by technical  
methods

**657.—(1)** Where the Minister is satisfied that any terrain, due to the paucity of rock outcrops or for any other reason, cannot be prospected or explored for its mineral possibilities, by other than geophysical or other technical methods, he may, notwithstanding anything in this Act but subject to the approval of the Lieutenant Governor in Council, issue a licence to prospect and explore any such area that he designates for base metals and minerals, other than petroleum oil and natural gas, subject to the following:

1. The licence shall be for a term of three years and may contain such conditions as the Minister considers proper.
2. The fee for the licence shall be \$1,000 payable annually during the term of the licence.



3. The area for which a licence may be issued shall be in one parcel and shall not be greater than 64,000 acres.
4. A licensee may surrender his licence at any time upon giving written notice thereof to the Minister at least thirty days before the surrender is to take effect.
5. The Minister may terminate a licence at any time if he is satisfied that the licensee has not complied with this section and the conditions of the licence.
6. Before the issue of a licence the applicant therefor shall furnish to the Minister a cash deposit of \$25,000 which shall be retained by the Minister until the licence expires or is surrendered when it shall be returned to the licensee, except that where the licensee has not complied with this section and with the conditions of the licence to the satisfaction of the Minister, the deposit is forfeited to and becomes the property of the Crown.
7. A licensee shall expend annually in geophysical, geological or other exploratory work of a similar nature, or drilling, a sum equal to \$1 per acre, but in no case shall such annual expenditure be less than \$25,000.
8. A plan detailing the nature of a proposed annual expenditure shall be submitted to the Minister for approval within ninety days of the date of issue or anniversary date of the licence, as the case may be, and if the plan is approved, the exploratory work shall be commenced within six months thereafter.
9. The licensee shall,
  - i. within thirty days after the anniversary date of the licence, prove to the satisfaction of the Minister that he has expended the amount required in the manner provided in paragraph 7,
  - ii. within sixty days of completion submit to the Minister full reports and plans of all geological or geophysical examinations, drillings or other exploratory work, including detailed logs of all holes drilled,
  - iii. correctly label all drill cores and cuttings, and
  - iv. permit the Minister or his authorized agent to examine all drill cores and cuttings at any time not later than six months after the completion of the drilling.

- Lease** (2) If a deposit of mineral is found by a licensee that in the opinion of the Minister is of economic importance, the licensee is entitled to apply for a lease comprising not more than 10 per cent of the area for which the licence was issued.
- Term** (3) The lease shall be for a term of ten years and shall contain such conditions as the Minister deems proper.
- Rental** (4) The annual rental shall be at the rate of not less than 50 cents and not more than \$5 per acre.
- Renewal** (5) The lease may be renewed for terms of ten years at such rental and subject to such conditions as the Minister deems proper.
- Regulations** (6) The Lieutenant Governor in Council may make such regulations as he deems expedient for the better carrying out of this section. 1953, c. 64, s. 8.

#### PART XIV

#### ACREAGE TAX

- Interpre-  
tation** **658.** In this Part, "municipality" means a city, town, village, township or improvement district. 1955, c. 45, s. 24, *part.*
- Amount  
of tax** **659.**—(1) There shall be paid to the Crown in right of Ontario in each year an acreage tax of 10 cents an acre on any lands or mining rights to which this Part applies.
- Minimum  
tax** (2) The minimum acreage tax is \$1 a year in a municipality and \$4 a year in territory without municipal organization. 1955, c. 45, s. 24, *part.*
- Date of  
payment  
of tax** **660.** The acreage tax shall be imposed for each calendar year and is payable on or before the 1st day of October in the year for which it is imposed. 1955, c. 45, s. 24, *part.*
- Lands liable  
for tax** **661.**—(1) Except as provided in this Part,
- (a) all lands and mining rights in territory without municipal organization held either mediately or immediately under patent or lease acquired under or pursuant to any statute, regulation or law at any time in force authorizing the granting or leasing of Crown lands for mining purposes;
  - (b) all land in territory without municipal organization being held or used for mining purposes howsoever patented or alienated from the Crown;

- (c) all mining rights in, upon or under lands in a municipality patented or leased under or pursuant to any statute, regulation or law at any time in force authorizing the granting or leasing of Crown lands for mining purposes;
- (d) all mining rights in, upon or under land in a municipality and being held or used for mining purposes howsoever patented or alienated from the Crown; and
- (e) all mining rights howsoever patented or acquired which are severed from or held apart or separate from the surface rights,

are liable for, and the owner or lessee thereof shall pay the acreage tax.

(2) No acreage tax is payable,

- (a) in respect of mining rights in, upon or under any land in a municipality, or any land and mineral rights in territory without municipal organization, where the land,

Lands  
exempt  
from tax

- (i) has been subdivided into lots or parcels for city, town, village or summer resort purposes, or

- (ii) is being actually used for public park, educational, religious or cemetery purposes,

but this clause does not exempt the mining rights from taxation on lots or parcels of more than two acres in area where the mining rights are severed or held apart or separate from the surface rights;

- (b) in respect of the mining rights in, upon or under any land being held, used or developed solely for the production of natural gas or petroleum situated south of the French River, Lake Nipissing and the Mattawa River including the Territorial District of Manitoulin;
- (c) in respect of any land where the owner has executed and filed with the Minister a conveyance to the Crown of the mining rights in, upon and under the land; and
- (d) in respect of mining lands or mining rights granted by the Crown under lease or renewal lease issued on or after the 1st day of June, 1953. 1955, c. 45, s. 24, *part.*



Lands used  
for agricul-  
tural  
purposes  
may be  
exempted

**662.**—(1) The Minister may exempt such lands as are in *bona fide* use for farming or agricultural purposes from the tax under this Part, but the exemption does not apply to the mining rights that are severed or held apart or separate from the surface rights.

Decision of  
Minister  
final

(2) The decision of the Minister as to the right of exemption under subsection 1 is final and conclusive. 1955, c. 45, s. 24, *part*.

Cases where  
mining  
rights tax-  
able only

**663.** Where the Minister is satisfied that the surface rights in respect of a mining claim or mining location are being used for purposes other than that of mining or the mineral industry, this Part applies only to the mining rights. 1955, c. 45, s. 24, *part*.

Preparation  
of tax roll

**664.** The Deputy Minister shall cause to be prepared each year a tax roll of the lands and mining rights and persons liable to the acreage tax. 1955, c. 45, s. 24, *part*.

Tax bills  
to be sent  
out before  
June 1st

**665.** The Deputy Minister shall, on or before the 1st day of June in the year for which the tax is payable, cause to be sent to every owner or lessee of land or mining rights subject to the acreage tax a tax bill showing the amount of the tax payable, the lands or rights to which it is applicable, and such other information as is prescribed. 1955, c. 45, s. 24, *part*.

When tax  
bill deemed  
to be  
delivered

**666.** A tax bill shall be deemed to be delivered to an owner or lessee of land or mining rights subject to the acreage tax, or to his agent or representative, if it is mailed post paid to the last known address in the Department of the owner, or lessee, or his agent or representative. 1955, c. 45, s. 24, *part*.

Registration  
of notice of  
liability  
and for-  
feiture

**667.** The Deputy Minister may register in the proper registry or land titles office a notice of liability to taxation and forfeiture, in the prescribed form, in respect of any lands or mining rights subject to the acreage tax. 1955, c. 45, s. 24, *part*.

Liability  
for tax  
though not  
on roll

**668.** Notwithstanding sections 664, 665, 666 and 667, every person and property liable to the acreage tax is liable whether entered in the tax roll or not, and the tax is, without any notice or demand, payable at the time and in the manner provided in this Part. 1955, c. 45, s. 24, *part*; 1957, c. 71, s. 15.

Commis-  
sioner may  
settle  
disputes

**669.** Where any question or dispute arises as to the name of a person having been wrongfully inserted in or omitted from a tax roll or as having been undercharged or overcharged under this Part, the Minister may in writing refer the question

or dispute to the Commissioner for hearing and adjudication. 1956, c. 47, s. 11.

**670.**—(1) Where lands or mining rights liable to acreage tax are held by two or more co-owners and the whole of the taxes have been paid by one or more of the co-owners and the other co-owner or co-owners has or have neglected or refused to pay his or their proportion of the taxes for a period of four years, the Commissioner, upon the application of the co-owner or co-owners who have paid the taxes, may make an order requiring the delinquent co-owner or co-owners to pay, within three months from the date of the order or such further time as the Commissioner fixes, their proper proportion of the taxes to the co-owner or co-owners who have paid them, together with interest at the rate of 6 per cent per annum compounded yearly, and such costs of the application as are allowed by the Commissioner. 1955, c. 45, s. 24, *part*; 1956, c. 47, s. 12.

Procedure to enforce claim for payment of taxes by one co-owner against another

(2) An application under subsection 1 shall be accompanied by a fee of \$25. 1957, c. 71, s. 16.

(3) The order shall be served in such manner as the Commissioner directs and, if at the expiration of the period fixed by the order it appears to the Commissioner that payment has not been made in accordance therewith, the Commissioner may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid the taxes, and that order shall be registered in the proper registry or land titles office and a duplicate original thereof forwarded by the Commissioner to the Minister. 1955, c. 45, s. 24, *part*; 1956, c. 47, s. 12.

Service of order

(4) Any order made against an incorporated company under this section shall be directed to the company only.

Service of order on company

(5) For the purpose of this section, two or more co-holders or co-lessees shall be deemed to be co-owners, and an incorporated company and a shareholder therein shall be deemed to be co-owners of the lands of the company. 1955, c. 45, s. 24, *part*.

Interpretation

**671.**—(1) The Deputy Minister shall cause to be prepared between the 1st day of October and the 31st day of December in each year a list of all lands and mining rights in respect of which any acreage tax is two years or more in arrear, and, not later than the 30th day of April next following, shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the registry or land titles office to be the owner or lessee of the property in default and to every person appearing from that search or inquiry to have an

Defaulters' list and notice of forfeiture



interest therein, stating that, unless the total amount of tax and penalties due and payable under this Part are paid on or before the 31st day of December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following; and to the amount so due and payable there shall in every case be added and paid as costs the sum of \$5 for each property.

Publication  
of list and  
notice

(2) Not later than the 31st day of May in each year, the Deputy Minister shall cause the list prepared under subsection 1 to be published in one issue of *The Ontario Gazette* and in one issue of a newspaper published in the district or county in which the property is situate, giving notice that, unless the total amount of acreage tax, penalties and costs shown therein are paid on or before the 31st day of December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following.

Declaration  
of forfeiture

(3) Where the total amount of acreage tax, penalties and costs remain unpaid after the 31st day of December of the year of publication of the notice mentioned in subsection 2, the Minister by certificate, in the prescribed form, may, on or after the 1st day of January next following, declare the lands or mining rights, and every interest therein, forfeited to and vested in the Crown, and thereupon the lands or mining rights, and every interest therein, vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto whether existing, arising or accruing before or after such forfeiture is declared.

Not open  
to staking

R.S.O. 1960,  
c. 324

(4) Except as provided in subsection 7, lands and mining rights so forfeited are not open for prospecting, staking out, sale or lease under this Act or for disposition under *The Public Lands Act*.

Registration  
of certificate

(5) The registrar of the registry division in which any land or right mentioned in a certificate of forfeiture made under subsection 3 is situate, or the local master of titles, as the case may be, shall, upon receipt of the certificate, duly register it and it is absolute and conclusive evidence of the forfeiture to the Crown of the land or mining rights so certified to be forfeited and is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture.

R.S.O. 1960,  
cc. 348, 204  
not to apply  
to forfeited  
lands

(6) Upon registration of the certificate of forfeiture in the registry or land titles office, *The Registry Act* or *The Land Titles Act*, as the case may be, ceases to apply to the land forfeited, and the registrar or local master of titles shall note that fact in his register in red ink.

Opening  
forfeited  
lands, etc.,  
for pros-  
pecting

(7) The lands and mining rights forfeited to and vested in the Crown under this Part that are mentioned in a notice



published in one issue of *The Ontario Gazette* during May of any year are open for prospecting, staking out, sale or lease under this Act or for disposition under *The Public Lands Act* at and after 7 o'clock standard time in the forenoon of the 1st day of June next following. 1955, c. 45, s. 24, *part*.

**672.** Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners or lessees of land or mining rights liable to taxation under this Part, search and inspect registry books, indexes and documents in registry and land titles offices, and no charge is to be made by and no fee is payable to a registrar or master of titles for any such search or inspection. 1955, c. 45, s. 24, *part*. Right to search registry and land titles office free of charge

**673.** Where any lands or mining rights have been forfeited to the Crown under this Part, the owner or lessee may take from them any machinery, chattels or personal property, and any ore or mineral he may have extracted therefrom belonging to him, within six months after the forfeiture or within such further time as is fixed by the Commissioner, and, in default of so doing, all such machinery, chattels, personal property, ore or mineral belongs to the Crown in right of Ontario. 1955, c. 45, s. 24, *part*; 1956, c. 47, s. 12. Machinery and property may be removed upon forfeiture

**674.—(1)** The Lieutenant Governor in Council may by order revoke, cancel or annul the forfeiture of any lands or mining rights under this Part, and the Deputy Minister shall cause the order to be registered in the proper land titles office or registry office and thereupon the lands or mining rights revert in the owner or lessee of the lands or mining rights at the time of forfeiture, his heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture and still outstanding. Annulment of forfeiture

(2) Where application is made for an order under subsection 1, the Minister may direct the lands or mining rights described in the application to be withdrawn from prospecting, staking out, sale or lease until the disposition of the application. 1955, c. 45, s. 24, *part*. Withdrawal of lands from prospecting, etc.

(3) The Minister may direct an application for an order under subsection 1 to be accompanied by a fee of \$25. 1957, c. 71, s. 17. Fee

**675.—(1)** Where the acreage tax is not paid within the time prescribed, a penalty of 6 per cent compounded yearly shall be added thereto forthwith and in each year thereafter Six per cent to be added for default

that the tax remains unpaid, and for all purposes the increased amounts become and are the tax due and payable under this Part.

Record of  
arrears to  
be kept

(2) The Deputy Minister, or such other person as is directed by the Minister, shall keep a record of all arrears of acreage taxes with the increased amounts from time to time entered thereon. 1955, c. 45, s. 24, *part*.

Special  
lien and  
priority  
of the tax

**676.** All taxes, penalties and costs payable under this Part constitute a special lien on the lands or mining rights against which the tax under this Part is levied in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of that person has accrued before, or accrues after, the attaching of the special lien, and its priority is not lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, and the special lien may be realized by action for sale of any or all property subject to it. 1955, c. 45, s. 24, *part*.

Right of  
action

**677.** If an owner or lessee of lands or mining rights fails to pay the acreage tax on his lands or mining rights when due, the Minister may bring action in any court of competent jurisdiction for the recovery of the tax together with penalties and costs. 1955, c. 45, s. 24, *part*.

Compromise  
of acreage  
taxes

**678.—(1)** Where a doubt arises as to the liability of a person to pay a tax or any part of a tax imposed under this Part, the Minister may, subject to the approval of the Lieutenant Governor in Council, compromise the matter by the acceptance of such amount as he deems proper and, where the tax imposed has been paid under protest, he may refund the tax or any part thereof to the person making the payment under protest. 1957, c. 71, s. 18, *part*.

Exemption  
from acreage  
tax

(2) Where land that was not subject to tax under this Part becomes subject to tax because the surface rights thereof have been severed from the mining rights for a public road, highway or public utility, the Minister may exempt the mining rights so severed from the tax during such term as he is satisfied that the mining rights are not being used or held for mining purposes. 1958, c. 59, s. 12.

## SCHEDULE

*The Mining Act*

## SCHEDULE OF FEES

## (Section 649)

1. For a miner's licence or renewal thereof for an individual. (See sections 24, 649).....	\$ 5.00
2. The fee for a miner's licence or renewal thereof for a company shall be based on its authorized capital as follows:	
1. Where the authorized capital does not exceed \$50,000 or 50,000 shares of no par value.....	25.00
2. Where the authorized capital exceeds \$50,000 or 50,000 shares of no par value but does not exceed \$1,000,000 or 1,000,000 shares of no par value.....	50.00
3. Where the authorized capital exceeds \$1,000,000 or 1,000,000 shares of no par value.....	100.00
3. For recording each boring permit staked out by a licensee.....	10.00
4. For recording in each licence year each claim of the first nine claims in a mining division.....	5.00
and for each additional claim.....	10.00
5. For examining claim record book, per claim.....	.25
6. For inspecting any document filed with a mining recorder.....	.25
7. For recording a dispute, per claim. (See sections 62, 649).....	10.00
8. For certificate of record of claim. (See sections 65, 649).....	1.00
9. For certificate of performance of working conditions. (See sections 83, 649).....	1.00
10. On filing appeal from recorder's decision. (See sections 138, 649).....	10.00
11. On filing appeal from Mining Commissioner's decision. (See sections 156, 649).....	20.00
12. For filing a transfer of the whole of or any interest in a mining claim.....	5.00
13. For filing an agreement, power of attorney or revocation thereof, copy of writ of execution, discharge of execution or any other instrument affecting a recorded claim, right or interest, per claim.....	2.00
14. For a substituted miner's licence. (See sections 28, 649).....	1.00
15. For special renewal licence under section 92, to save forfeiture, twice the prescribed licence fee.....	
16. For recording an order of the Mining Commissioner extending the time for performing working conditions, affixing metal tags or making application and payment for patent or lease, per claim.....	5.00
17. For recording an order of the Mining Commissioner relieving against forfeiture or loss of rights and extending the time for performing working conditions, affixing metal tags, making application for patent or lease or authorizing the filing of a belated report of work, per claim.....	10.00



18. For recording an order of the Mining Commissioner, or made on appeal from him, per claim. (See Sections 82, 649)....	1.00
19. For recording a certificate that interest in claim or other recorded right or interest is called in question, per claim. (See sections 82, 649).....	10.00
20. For copies or certified copies of any document, paper or record obtained from any officer, per folio.....	.10
21. For a copy or certified copy of an application to record a mining claim or of a report of work, each.....	1.00
22. For every affidavit sworn before a recorder.....	.25
23. For abstract or copy of entries in record book respecting a mining claim.....	.50
24. For making additional entries on an abstract of a mining claim.....	.25
25. For filing an application for a mining claim under subsection 2 of section 62.....	10.00
26. For a quarry permit covering an area of 40 acres or less.....	10.00
and for each additional acre over 40 or part thereof.....	.25

R.S.O. 1950, c. 236, Sched.; 1951, c. 51, s. 5; 1953, c. 64, s. 9; 1954, c. 53, s. 11; 1955, c. 45, s. 25; 1957, c. 71, s. 19; 1958, c. 59, s. 13.

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## CHAPTER 242

**The Mining Tax Act****1. In this Act,**Interpre-  
tation

- (*a*) "Department" means the Department of Mines;
- (*b*) "Deputy Minister" means the Deputy Minister of Mines; R.S.O. 1950, c. 237, s. 1, cls. (*a*, *b*).
- (*c*) "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act, and, in the absence of an established practice, the fiscal year is that adopted by the corporation, but no fiscal year may exceed fifty-three weeks, and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Minister; 1958, c. 60, s. 1 (1).
- (*d*) "mine" means any opening in or working of the ground from or by which metalliferous ore or other solid mineral substance is taken, and includes the mining claim, mining location or other the whole parcel of land or mineral in which any such workings are being or have been carried on, but the term "mineral substance" or "mineral workings" does not include diatomaceous earth, limestone, marl, peat, clay, building stone or stone for ornamental or decorative purposes, or non-auriferous sand or gravel;
- (*e*) "mine assessor" means any officer of such designation appointed under this Act and any other officer or person appointed or directed by the Minister to perform any duty or exercise any power or authority by this Act specified or provided to be performed or exercised by a mine assessor;
- (*f*) "mining rights" includes ores, mines, minerals and mineral rights of every kind;
- (*g*) "Minister" means the Minister of Mines; R.S.O. 1950, c. 237, s. 1, cls. (*c-f*).
- (*h*) "municipality" means a city, town, village, township or improvement district; 1952, c. 60, s. 1.

- (i) "output", when used in reference to a mine, means all ores or other solid mineral or mineral-bearing substances raised, taken or gained from any mine or land in Ontario, and which have been sold, or have been removed from the mining premises where produced, or have been treated or partially treated at any smelter, mill or refinery on the mining premises from which they were taken;
- (j) "person" includes corporation, company, syndicate, trust, firm, partnership, co-owners, or party, and the heirs, executors, administrators or other legal representatives of such person if the context can apply thereto; R.S.O. 1950, c. 237, s. 1, cls. (h, i).
- (k) "taxation year" means, in the case of a mining corporation, fiscal year, and in the case of an individual, partnership or syndicate engaged in mining operations, calendar year, and in the case of an individual, partnership, syndicate or corporation engaged in the production of natural gas, calendar year. 1958, c. 60, s. 1 (2).

When taxes  
accrue and  
when  
payable

**2.—**(1) The taxes imposed under this Act accrue on the last day of the taxation year and the estimated amount thereof is payable to the Minister not later than two months following the close of the taxation year with respect to the tax payable under section 3 and not later than four months following the close of the taxation year with respect to the tax payable under section 15.

Payment  
of balance

(2) Every person liable to pay a tax under this Act shall pay the amount, if any, by which any tax payable as estimated by him to be payable in the return required to be delivered by section 6 or section 19, as the case may be, exceeds the amount paid under subsection 1, at the time of making such return. 1958, c. 60, s. 3.

## PART I

### MINING TAX

Profit tax

**3.—**(1) Every mine, the profit of which exceeds \$10,000 in a taxation year, is liable for and the owner, manager, holder, lessee, tenant, occupier and operator thereof shall pay a tax of,

- (a) 6 per cent on the excess of profit above \$10,000 and up to \$1,000,000;
- (b) 11 per cent on the excess of profit above \$1,000,000 and up to \$5,000,000; and



- (c) 12 per cent on the excess of profit above \$5,000,000.  
1958, c. 60, s. 4 (1).

(2) For the purpose of this section, all mines and mineral workings occupied, worked or operated by the same person or <sup>Mines worked together</sup> under the same general management or control or the profits of which accrue to the same person shall, for the purpose of determining whether there is liability to taxation hereunder, be deemed to be and be dealt with as one and the same mine, and not as separate mines. R.S.O. 1950, c. 237, s. 4 (2).

- (3) The profit for a taxation year is the difference between, <sup>Ascertainment of profit</sup>

- (a) the amount of the gross receipts from the output of the mine during the taxation year; or
- (b) in case the ore, mineral or mineral-bearing substance or a part thereof is not sold but is treated by or for the owner, holder, lessee, tenant, occupier or operator of the mine, the amount of the actual market value of the output at the pit's mouth; or
- (c) if there is no means of ascertaining the actual market value of the output at the pit's mouth, the amount at which the mine assessor appraises such output,

and the following expenses, payments, allowances or deductions:

- (d) the cost of transportation of any output sold, if paid or borne by the owner, holder, lessee, tenant, occupier or operator;
- (e) the proper working expenses of the mine, both underground and above ground, including salaries and wages of all necessary employees employed at or about the mine and the proper salaries and office expenses for necessary office work done at the mine and at the head office of the mine and in immediate connection with the mining operations;
- (f) the cost of power, light and transportation used in the mining operations and in handling the ore or mineral;
- (g) the net cost of food and provisions supplied to the employees of the mine;
- (h) the cost of explosives, fuel and any other supplies necessarily consumed in the mining operations;
- (i) any proper outlay incurred in safeguarding or protecting the mine or mineral product;

- (j) the cost of proper insurance upon the output, if paid or borne by the owner, holder, lessee, tenant, occupier or operator, and upon the mining plant, machinery, equipment and buildings used for or in immediate connection with the mining operations or for storing the ore or mineral;
- (k) an allowance for depreciation of not less than 5 per cent per annum and not more than 15 per cent per annum of the cost or value as determined by the mine assessor at the close of the taxation year of the mining plant, machinery, equipment and buildings until the full value or cost thereof has been allowed as an expense under this section, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of, the proceeds from such disposal shall be applied to reduce the cost or value of any additions thereto in the taxation year, and where such proceeds exceed the cost of such additions, such excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, such excess shall be applied to reduce deductions otherwise allowable under this section;
- (l) subject to the approval of the mine assessor and notwithstanding anything in this subsection, at least 15 per cent of the expenditure incurred, following the commencement of production and which has not at any time in a previous year been allowed as an expense, for actual exploration and development work done in Ontario where the work has as its object the finding, testing or opening up of deposits of metalliferous ore or other solid mineral substances on the following conditions:
  - (i) that such expenditure does not include moneys paid in the purchase of, or in acquiring an option to purchase, or in acquiring the right to mine, or an option on the right to mine, such deposits,
  - (ii) that such expenditure was made or borne by the person liable for taxation upon the mine under this Act, and
  - (iii) that separate accounts of such expenditure are kept and furnished in reasonable detail with the return required under section 6; and

(m) donations actually made for charitable, educational or patriotic purposes that are approved by the mine assessor. 1958, c. 60, s. 4 (2).

(4) No allowance or deduction shall be made in respect of, Allowances and deductions not permitted

(a) cost of plant, machinery, equipment or buildings except as provided in subsection 3;

(b) capital invested, or interest or dividend upon capital or stock or investment;

(c) depreciation in the value of the mine, mining land or mining property by reason of exhaustion or partial exhaustion of the ore or mineral;

(d) royalties paid for or in respect of the output of a mine situated on lands not the property of the Crown; and

(e) cost of development of the mine liable for taxation under this Act before the commencement of output therefrom. 1952, c. 60, s. 2; 1955, c. 46, s. 2 (3, 4).

(5) In ascertaining and fixing the profit of a mine for the purpose of this section in respect of the tax payable under this section in 1949 and thereafter, the total of the expenses, payments, allowances or deductions under subsection 3 shall be reduced by an amount equal to any sum paid during the taxation year under the *Emergency Gold Mining Assistance Act* (Canada) and the mine assessor may prorate such deduction to mining and processing costs in such proportions as he deems equitable. 1957, c. 72, s. 1 (5); 1958, c. 60, s. 4 (3). Assistance payments may be deducted from expenses R.S.C. 1952, c. 95

(6) In determining the amount of the tax under this section where the period of production is, in the opinion of the mine assessor, for a period of less than twelve months, the amount of the profit for the period of production shall be multiplied by the quotient of 365 divided by the number of days of production, and the rates mentioned in subsection 1 shall be applied to the product thereof in the same manner as though such product was the true profit for the taxation year, and the amount so determined shall be multiplied by the quotient of the number of days of production divided by 365. 1958, c. 60, s. 4 (4). Part-year production

4.—(1) The owner, manager, holder, lessee, tenant, occupier and operator of every mine, from which ore, minerals or mineral-bearing substances is or are being taken, shall, within ten days after the commencement of such active operations, notify the Department of the fact that the mine is in active operation, and shall give in such notice its name and the name and address of its owner, manager, holder, lessee, Duty to give notice of active operations



tenant, occupier and operator, and the name and address of its manager, or of some other person, to whom notices to be given under this Act may be sent (to be known as the name and address for service) and shall forthwith notify the Department of every change in the name and address of such manager or person, and of every change in the ownership, management, holding, tenancy, occupation or operation of the mine, and of every discontinuance of active operations, and of every recommencement thereof after discontinuance.

List of  
mines

(2) From the information so given and from any other available source, the Department shall prepare and keep a list showing all operating mines in Ontario, with the names and addresses and particulars as so notified and given (keeping in a distinct and separate column or place the name and address for service), and any notice or requisition required or provided for by this Act shall be deemed to have been properly and sufficiently given and served if mailed by registered letter to the person whose name and address for service have been given at such address or, in case such a name and address be not so notified, then if mailed by registered letter to the address that the official or person sending the notice or requisition thinks most likely to reach the proper person. R.S.O. 1950, c. 237, s. 5.

Shipping  
forbidden  
before  
notice

5. No person shall ship, send, take or carry away, or permit to be shipped, sent, taken or carried away, from the mine from which the same has been taken any ore, mineral or mineral-bearing substance, or any product thereof, until he has notified the Department that the mine from which it has been taken is in active operation. R.S.O. 1950, c. 237, s. 6.

Return

6.—(1) Every person liable to pay the tax imposed by section 3 shall, on or before the last day of the month that ends six months following the close of the taxation year, without notice or demand, and every person whether or not liable to pay the tax imposed by section 3 shall, upon receipt of a notice or demand in writing from the mine assessor or from any officer of the Department authorized by the Minister to make such demand, deliver to the Department such return as is required by the mine assessor.

Idem

(2) The return shall contain an estimate of the tax payable and shall be verified by a certificate stating that the information included in the return is in agreement with the books required to be kept under section 7, and such certificate shall be signed by an officer who has personal knowledge of the affairs of the mine, but the mine assessor may require such return or any part thereof to be made or verified under oath. 1958, c. 60, s. 5.

7.—(1) Every person liable to pay the tax imposed under section 3 shall keep, at or near the mine, proper books of account of the ore, minerals or mineral-bearing substances taken from the mine, containing the quantity, weight and other particulars of the same and the value thereof, and showing the returns from the smelter, refinery or mill, or other returns of the amounts derived from the sale of such ores, minerals and mineral-bearing substances; and no ore, mineral or mineral-bearing substance taken out of any mine shall be removed therefrom or treated at any smelter, refinery or mill until the weight thereof has been correctly ascertained and entered in the books of account; and such person shall also keep proper books showing each of the several expenses, payments, allowances and deductions mentioned in section 3, and showing any other facts and circumstances necessary or proper for ascertaining the amount of such tax. <sup>Books to be kept</sup>

(2) If any doubt arises as to where such books are to be kept, or as to how many, or what books are to be kept, the mine assessor shall determine the number and character of the books to be kept and the place at which they are to be kept. <sup>Power of mine assessor as to books</sup>  
R.S.O. 1950, c. 237, s. 8.

8. The Lieutenant Governor in Council may from time to time appoint one or more officers under this Act, to be known as a mine assessor or mine assessors, and the Minister may from time to time appoint any officer or person to perform for the time being, or to perform in any locality or in any special matter or case, the duties of mine assessor, and every such officer or person shall be deemed an officer of the Department, and it is his duty, subject to the direction of the Minister, annually, and oftener if so required, to prepare lists and descriptions of and ascertain and report the facts and particulars concerning all mines, mining properties and mining rights liable, or which might be liable, to taxation under this Act, and to furnish the same to the Department, and to make such investigations and perform such other duties as are provided for by this Act or as are prescribed by the Minister. <sup>Mine assessors' duties</sup>  
R.S.O. 1950, c. 237, s. 9.

9. It is lawful at all times for a mine assessor to enter upon mining premises for the purpose of making inquiries, obtaining information and otherwise performing his duties under this Act, and for any of these purposes he may descend all pits and shafts, and use all tackle, machinery, appliances and things belonging to the mine as he deems necessary or expedient, and he shall be given free ingress and egress to, from and over all buildings, erections and vessels used in connection with the workings, and he shall from time to time <sup>Assessors may enter mines</sup>

be allowed to take from the mining premises such samples or specimens as he desires for the purpose of determining by assay or otherwise the value of the ore, minerals or mineral-bearing substances being taken therefrom, or any product thereof, and he shall be given full and complete access to all books of account and letters kept or used for or in connection with the work and business of the mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired by an assessor under this section shall not be communicated or disclosed to anyone except so far as is necessary for the purposes of this Act. R.S.O. 1950, c. 237, s. 10.

Preparation  
of tax roll

**10.**—(1) The Department or any mine assessor or other officer or person acting under the direction of the Minister in that behalf shall, as soon as practicable after the receipt of the returns and statements mentioned in section 6, prepare from them and from the lists, statements and reports of the mine assessor a tax roll showing all mines and persons liable for the taxes imposed under section 3, and showing the quantity and value of output for each mine, the amount of deductions therefrom under the various headings as far as practicable, the profits for which each mine and person is assessable, and the amount of tax payable by each, also any deduction entitled to be made therefrom by reason of payment of municipal profits tax, and in making up the rolls the statement furnished pursuant to section 6 is *prima facie* evidence of the information required; but any default or defect in the furnishing of such statement or any omission therefrom shall not prevent the complete preparation of the roll, but in all cases the officer or person charged with the duty of preparing the roll may, subject to the approval of the Minister, make full and careful inquiry as to the correctness thereof, and may resort to all available sources of information within his control, and may make or order a mine assessor to make any investigation he deems fit, and may fix such amount as he believes to be just and correct; provided that, whenever a mine or person is assessed for a larger sum than the statement shows liability for, notice thereof shall be given to such person, and he is entitled within fifteen days from the mailing of the notice to appeal from the assessment as hereinafter provided.

Finalization  
of tax roll

(2) When the time for filing such appeal has expired, the cases appealed shall be marked or distinguished from the others on the roll, and the roll shall thereupon be made up in duplicate, and the Minister shall by his signature authenticate it as being the roll for the year, and subject to the determination of appeals, and subject to any additions or alterations that may be made by or pursuant to any investigation



that may be ordered or directed as hereinafter provided for, the roll is final and conclusive as to the liability of the several mines and persons therein mentioned to pay the tax therein specified.

(3) An appeal under subsection 1 shall be made by lodging with the Department within the time limited a notice in writing stating that the appellant thereby appeals from the tax in question, and stating as far as practicable the grounds of appeal or the particulars of objection to the tax, and the appeal shall be referred in writing by the Minister to the Mining Commissioner or to the Ontario Municipal Board, to be tried and determined. <sup>Notice of appeal</sup>

(4) The Minister, if in any case he sees fit, instead of having the amount of the tax for any mine or person entered on the roll, as mentioned in subsection 1, may direct in writing that the amount of the tax for which such mine or person is liable be ascertained and fixed by the Mining Commissioner or by the Ontario Municipal Board, and the Minister may at any time, either before or after the roll is made up and signed and whether or not the mine or person in question is entered thereon for taxation, direct in writing that the truth or correctness of any statement furnished pursuant to section 6, or that the question of liability or amount of liability of any mine or person for the tax under this Act, shall be inquired into and investigated and reported upon by the Mining Commissioner or the Ontario Municipal Board. <sup>Investigation in lieu of appeal</sup>

(5) The Mining Commissioner or the Ontario Municipal Board shall, upon receiving a direction or reference under subsection 3 or 4, proceed to try and dispose of the appeal, or determine or inquire into and investigate the question or matter so referred or directed to be investigated, and for all and any of such purposes has the same power to enforce the attendance of witnesses, and to compel them to give evidence, and produce documents and things, as is vested in any court in civil cases, and the decision of the Mining Commissioner or the Ontario Municipal Board, after giving the parties an opportunity to be heard, is for the purposes of this Act final and conclusive as to the particulars therein mentioned, subject only as hereinafter in this section provided. <sup>Hearing of appeal</sup>

(6) In any such proceedings or investigation, or on an appeal, the Mining Commissioner or the Ontario Municipal Board may order the appellant, or the person causing the investigation by reason of false or incorrect statements, or failure to keep books and accounts or to otherwise conform to this Act, to pay the costs of such appeal, proceeding or investigation, and may direct that they be taxed by a taxing officer of the Supreme Court and added to the tax for which such person is liable under this Act. <sup>Costs</sup>

Filing  
decision

(7) All decisions, findings and reports made by the Mining Commissioner or the Ontario Municipal Board pursuant to this section shall be filed with the Department, and notice of the filing shall forthwith thereafter be mailed by the Department to the owner or manager of the mine concerned.

Appeal to  
Court of  
Appeal

(8) In any case where the amount of the tax involved exceeds \$1,000, an appeal lies from any decision, finding or report of the Mining Commissioner or the Ontario Municipal Board under this section to the Court of Appeal; provided that notice of such appeal is lodged with the Department within fifteen days after the filing of such decision, finding or report with the Department, and the procedure upon and governing such appeal shall be, as far as may be, the same as upon an appeal to the Court of Appeal in an action, but leave is not necessary, and the decision of that court is final. R.S.O. 1950, c. 237, s. 11; 1956, c. 47, s. 12.

Adjustment  
of tax after  
appeals

(9) Where an appeal is taken under this section, the amount by which the amount of tax finally determined is more or less than the amount then paid shall be payable by or remitted to the person liable for such tax, as the case may be, forthwith. 1958, c. 60, s. 6.

Notice of  
assessment

**11.**—(1) The mine assessor, after examining the return delivered under section 6, shall send a notice of assessment to the person liable for the tax payable by section 3 confirming or altering the amount of the tax as estimated in the return and any tax found to be payable over the estimated amount shown in the return shall be paid within one month after the mailing of the notice of assessment, whether or not an appeal is taken under section 10.

Refunds

(2) Where the amount of the tax is found to be less than the amount then paid, the amount by which such payment is more than the tax shall be remitted forthwith to the person liable for such tax. 1958, c. 60, s. 7.

Allowance  
for profits  
tax paid  
to municip-  
ality or  
school board

**12.** Where a person liable for payment of tax under section 3 is also during any year in which such tax is payable liable for and paying to a municipality or a school board of a school section in territory without municipal organization, a tax upon the profits of a mine situated therein, he is entitled to deduct from the tax payable under section 3 an amount equal to the sum for which he is liable to the municipality or school board under subsection 11 of section 35 of *The Assessment Act*, if proof of the payment thereof is furnished to the mine assessor at such time and in such manner as he requires. 1952, c. 60, s. 3.

R.S.O. 1960,  
c. 23

**13.** In case any doubt or dispute arises as to the liability of any person to pay a tax or any part of a tax demanded under this Act, or where owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed under this Act, the Minister may compromise the matter by the acceptance of such amount as he deems proper; and in case the tax claimed has been paid under protest he may refund it or any part of it to the person making such payment. R.S.O. 1950, c. 237, s. 25. <sup>Compromise of tax</sup>

**14.** The Minister may remit the tax upon the profits arising out of the mining of iron ore where he is satisfied that the iron ore has been smelted in Canada or delivered to a blast furnace therein for the purpose of being smelted. R.S.O. 1950, c. 237, s. 45. <sup>Remission of tax on iron ore profits</sup>

## PART II

### NATURAL GAS

**15.—(1)** Every person producing natural gas is liable for and shall pay an annual tax as follows: <sup>Tax on natural gas</sup>

1. Where exported from Canada—2 cents a thousand cubic feet.
2. Where consumed in Canada—one-half cent a thousand and cubic feet.

**(2)** The Minister may remit the annual tax to the extent of \$250 on natural gas consumed in Canada. R.S.O. 1950, c. 237, s. 27. <sup>Remission of tax</sup>

**16.** The owner, lessee, tenant, occupier or operator of one or more wells shall keep a book continuously at a place in Ontario fixed by the mine assessor in which he shall truly and faithfully record the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells operated by him. R.S.O. 1950, c. 237, s. 28. <sup>Books to be kept</sup>

**17.—(1)** The mine assessor may inspect at any time all apparatus and machinery used in connection with any well, for the purpose of estimating or ascertaining the quantity of gas flowing, drawn or pumped from or produced by any well. <sup>Inspection: apparatus</sup>

**(2)** The mine assessor may examine at any time the book referred to in section 16 and may call for and examine all books, records and memoranda, whether the same are required by law to be kept or not, kept by the owner, lessee, tenant, occupier or operator or any one or more of them, for the purpose of ascertaining the quantity of gas flowing, drawn or



pumped from or produced by any well; and the owner, lessee, tenant, occupier or operator shall forthwith upon demand produce to the mine assessor all such books, records and memoranda for the purposes aforesaid. R.S.O. 1950, c. 237, s. 29.

When meter  
to be affixed

**18.**—(1) If the mine assessor has reason to believe that the amount of gas produced by any well is not correctly shown by the book required to be kept, or by other books, records or memoranda as aforesaid, he may direct that a meter shall be affixed by the owner, lessee, tenant, occupier or operator to every main pipe or duct through which all of the gas flowing, drawn or pumped from the well or wells passes, so as to indicate the total gross quantity of gas flowing, drawn or pumped from, or produced by the well or wells.

Defective  
meters to be  
remedied

(2) The meter may be inspected and tested at any time by or at the request of the mine assessor for the purpose of ascertaining whether it correctly records the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, and in case he finds that it is not truly recording the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, he may by a writing under his hand order that it be put in order forthwith so as to furnish a true record, or he may order that a new meter be affixed forthwith to the pipe or duct; and the owner, lessee, tenant, occupier or operator shall cause the order to be obeyed forthwith.

Meter not  
correctly  
placed

(3) If the mine assessor finds that the meter is so placed that the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells does not pass through the meter, he may by a writing under his hand order that it be so placed that all of the gas proceeding from the well or wells passes through it, and the owner, lessee, tenant, occupier or operator shall cause the order to be obeyed forthwith. R.S.O. 1950, c. 237, s. 30.

Return

**19.**—(1) Every person liable to pay the tax imposed by section 15 shall, on or before the last day of the month that ends six months following the close of the taxation year, without notice or demand, and every person whether or not liable to pay the tax imposed under section 15 shall, upon receipt of a notice in writing from the mine assessor or from any officer of the Department authorized by the Minister to make such demand, deliver to the Department such return as is required by the mine assessor.

Idem

(2) The return shall contain an estimate of the tax payable and shall be verified by a certificate stating that the information included therein is in agreement with the book required

to be kept under section 16, and such certificate shall be signed by an officer or person who has personal knowledge of the affairs of the well or wells, but the mine assessor may require such return to be made or verified under oath. 1958, c. 60, s. 8, *part.*

**20.**—(1) The mine assessor, after examining the return delivered under section 19, shall send a notice of assessment to the person liable for the tax imposed by section 15 confirming or altering the amount of the tax as estimated in the return, and any tax found to be payable over the estimated amount shown in the return shall be paid within one month after the mailing of the notice of assessment whether or not an appeal is taken under section 21. Notice of assessment, under-payments

(2) Where the amount of the tax is found to be less than the amount then paid, he amount by which such payment is more than the amount of the tax shall be remitted forthwith to the person liable for such tax. 1958, c. 60, s. 8, *part.* Refunds

**21.**—(1) If the owner, lessee, tenant, occupier or operator appeals the notice given under section 20, the dispute shall be heard by the Mining Commissioner or the Ontario Municipal Board as the Minister directs, and the decision of the Mining Commissioner or Board, as the case may be, is final and conclusive, and the quantity so found shall be entered on the return required under section 19 as the true quantity and the tax for such period shall be computed thereon. Disputed notice

(2) Where an appeal is taken under subsection 1, the amount by which the amount of tax finally determined is more or less than the amount then paid is payable by or shall be remitted to the person liable for such tax, as the case may be, forthwith. 1958, c. 60, s. 8, *part.* Adjustment

**22.** A municipal corporation shall not be required to pay any tax under this Part upon any gas actually used in Canada. Exemption of municipal corporation  
R.S.O. 1950, c. 237, s. 34.

### PART III

#### GENERAL

**23.**—(1) Where the amount paid on account of tax payable under this Act by a person for a taxation year, before the expiration of the time allowed for delivering of the return under section 6 or section 19, is less than the amount of tax payable for the taxation year, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at the rate of 6 per cent per annum. Interest on unpaid tax

Idem

(2) Where a person is required by subsection 1 of section 2 to pay a tax imposed by this Act and he has failed to pay all or any part thereof as required, the person, in addition to the interest payable under subsection 1, shall pay interest on the amount he failed to pay at 6 per cent per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection 1, whichever is earlier.

Ten per cent  
to be added  
for default

(3) Where any tax imposed under this Act is not paid at the time provided, 10 per cent shall be added thereto forthwith and 10 per cent shall be added on the same day of each year thereafter so long as the tax remains unpaid, and such additional amounts shall for all purposes be deemed to be a tax payable under this Act. 1958, c. 60, s. 9.

Penalty for  
failure to  
comply with  
s. 6 or 19

**24.** Every person who is required to deliver a return under section 6 or to furnish a statement under section 19 shall, in case of failure to deliver the return or furnish the statement, as the case may be, incur a penalty of \$20 per day for each day during which the default continues, which penalty shall be added to and become part of the tax payable under this Act, and every such person is also liable to pay a tax of double the amount otherwise payable, and any such penalty and double tax shall be recovered from any person liable therefor in an action brought in the name of the Minister to be tried by a judge without a jury. 1958, c. 60, s. 10.

Penalty for  
non-compli-  
ance with  
orders

**25.** If any order made under subsection 2 or 3 of section 18 is not complied with within a reasonable time after it has been delivered, the owner, lessee, tenant, occupier or operator is liable to a penalty of \$10 for every day from the delivery of the order until it is complied with, to be recovered with costs by action at the suit of the Minister in any court of competent jurisdiction as a debt due, and the owner, lessee, tenant, occupier or operator is also liable for double the tax computed upon the amount of gas estimated by the mine assessor to be passing through the pipe or duct during such period. R.S.O. 1950, c. 237, s. 44.

Special lien  
and priority  
of the tax

**26.** All taxes, double taxes, added percentages, penalties and costs payable under this Act are a special lien on the mine, mining location, mining claim, land or mining rights and upon all ore, minerals or mineral-bearing substances taken therefrom, and upon the gas well or wells and the leases of and rights respecting the same and upon all machinery upon or connected with the mine or gas well or wells in priority to



every claim, privilege, lien or encumbrance of any person, whether the right or title of such person has accrued before or accrues after the attaching of such lien, and its priority shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, and such lien may be realized by action for sale of any or all property, leases and rights subject to such lien. R.S.O. 1950, c. 237, s. 36.

**27.** If any tax imposed under this Act is not paid when due, the same, together with all additions of percentage, double tax, penalties and costs payable under this Act, may be recovered from the owner, lessee, tenant, occupier or operator of the mine or well by an action at the suit of the Minister in any court of competent jurisdiction, together with the costs of the action. R.S.O. 1950, c. 237, s. 37, *amended*. Action to  
recover tax

**28.—(1)** In addition to any other remedy for the recovery of any tax imposed under this Act, an injunction or an order in the nature of an injunction or the appointment of a receiver with all necessary powers, or such other relief or remedy as seems necessary or expedient for securing payment of the tax, may, in any case where any tax under this Act is overdue or where the payment of any accrued or future tax seems endangered, be obtained in the Supreme Court or county or district court at the instance and in the name of the Minister to prevent the removal, transportation or transmission of any ore, mineral or mineral-bearing substance, or natural gas, or to prevent or restrict mining operations or the production or waste of natural gas, or to provide for such operations or production upon such terms and conditions as seem proper. Injunction  
or receiver

**(2)** Where natural gas is wasting in such quantity that the mine assessor deems that payment of any tax due or to become due thereon is endangered, he may give notice in writing to the owner or person in charge of the well from which the gas is flowing, or may post up notice at or near such well requiring stoppage of the waste, and if the waste is not effectively prevented within six days thereafter the mine assessor may, with the consent of the Minister, forthwith close up or direct and procure the closing up of such well in such way as he deems suitable and proper, and the mine assessor has all rights and powers necessary therefor, and the expenses of the closing up as certified by the mine assessor shall, subject to appeal as provided by section 10, be added to and be deemed part of the tax under this Act. R.S.O. 1950, c. 237, s. 38. Closing up  
natural gas  
well where  
tax  
endangered  
by waste

Action by  
Minister  
does not  
abate

**29.** Any action that may be brought under this Act may be brought by the Minister as plaintiff, and it is not necessary to name the Minister, and the action does not abate by reason of a change in the person of the Minister or by reason of the office being vacant at any time, but the action may proceed as though no change had been made or no vacancy existed. R.S.O. 1950, c. 237, s. 39.

Distress

**30.** Where default is made in the payment of any taxes imposed under this Act, the taxes, together with all additions of percentage, double tax, penalties and costs, may be levied and collected by distress, together with costs of distress, upon the goods and chattels wherever found of the person or any person liable therefor, under warrant signed by the Minister or Deputy Minister, directed to the sheriff of any county or district in which the person in arrear may have any goods or chattels, and in such case the sheriff shall realize the amount directed to be realized by the warrant and all costs by sale of such goods or so much thereof as may be necessary to satisfy the amount directed to be levied by such warrant. R.S.O. 1950, c. 237, s. 40.

Offence, false  
information

**31.** Every person knowingly making or signing any false statement or furnishing any false or incorrect information to the Department or a mine assessor or giving any other false or incorrect information to any officer or person in respect to any other matter or thing required under this Act, or keeping or causing to be kept any false or incorrect book or accounts regarding anything required under this Act, with intent to deceive is, in addition to any other liability, guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1950, c. 237, s. 41.

Offence,  
disclosing  
information,  
etc.

**32.** Every person contravening section 5 and every person contravening section 9 by communicating or disclosing any information contrary to the provisions thereof is guilty of an offence and on summary conviction is liable to a fine of \$50. R.S.O. 1950, c. 237, s. 43.

#### REGULATIONS

Regulations

**33.** The Lieutenant Governor in Council may make regulations for carrying out the purposes of this Act. R.S.O. 1950, c. 237, s. 46.

Effect of  
1959 amend-  
ments when  
proclaimed

**34.** The amendments to the provisions of *The Mining Tax Act* in *The Mining Tax Amendment Act, 1959* when proclaimed in force shall be deemed to be amendments to the corresponding provisions of this Act. *New.*

## CHAPTER 243

**The Minors' Protection Act**

**1.**—(1) The keeper of a licensed billiard, pool or bagatelle <sup>Pool rooms, etc.</sup> room, kept directly or indirectly for hire or gain, shall not admit thereto a child under eighteen years of age, or allow such a child to remain therein, unless the child is accompanied by his parent or legal guardian.

(2) This section does not apply to a child who is a member <sup>Exception</sup> of the family of the keeper or his servant, or who does not go to the billiard, pool or bagatelle room for the purpose of loitering or to play billiards, pool or bagatelle therein, nor where the keeper had reasonable cause to believe that the child was not under eighteen years of age. R.S.O. 1950, c. 238, s. 1.

**2.**—(1) No person shall either directly or indirectly sell <sup>Supplying tobacco</sup> or give or furnish to a child under eighteen years of age cigarettes, cigars or tobacco in any form.

(2) This section does not apply to a sale to a child for his <sup>Exception</sup> parent or guardian under a written request or order of the parent or guardian. R.S.O. 1950, c. 238, s. 2.

**3.**—(1) Every person who contravenes any of the pro-<sup>Offence</sup>visions of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$2 and not more than \$50. R.S.O. 1950, c. 238, s. 3 (1).

(2) Where there is a juvenile and family court with juris-<sup>Primary jurisdiction in juvenile and family court</sup>diction, prosecutions under this Act shall be tried in that court.

(3) A person who appears to the judge or magistrate, as <sup>Presumption as to age</sup>the case may be, to be under eighteen years of age shall be deemed to be under that age unless it is found that he is in fact over that age. 1954, c. 54, s. 1.

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## CHAPTER 244

## The Mortgage Brokers Registration Act

## 1. In this Act,

Interpre-  
tation(a) "mortgage" has the same meaning as in *The Mortgages Act*; R.S.O. 1960,  
c. 245

(b) "mortgage broker" means a person who carries on the business of lending money on the security of real estate, whether the money is his own or that of another person, or who holds himself out as or who by an advertisement, notice or sign indicates that he is a mortgage broker, or a person who carries on the business of dealing in mortgages;

(c) "person" means an individual, an association of individuals, a partnership or a corporation, and includes an agent of any of them;

(d) "Registrar" means the registrar under *The Collection Agencies Act*; R.S.O. 1960,  
c. 58

(e) "Superintendent" means the Superintendent of Insurance. 1960, c. 68, s. 1.

2. The Registrar may exercise the powers and shall discharge the duties conferred or imposed upon him by this Act under the supervision of the Superintendent. 1960, c. 68, s. 2.

Powers and  
duties of  
Registrar

3. The Registrar shall keep a register to be called "The Mortgage Brokers Register" in which he shall enter the name of every mortgage broker to whom registration is granted, the name under which the business is carried on and the address, or the addresses if more than one, at or from which the business is carried on. 1960, c. 68, s. 3.

Register

4.—(1) The Superintendent shall grant registration under this Act to every applicant, except where he is of the opinion, based on facts known to him, that so to do would not be in the public interest.

Registration

(2) Where the Superintendent refuses to grant registration, subsection 2 of section 10 and sections 11 and 12 apply *mutatis mutandis*. 1960, c. 68, s. 4.

Review,  
appeal

Expiry of  
registration

**5.** Every registration expires on the 30th day of June in each year but may be renewed from year to year. 1960, c. 68, s. 5.

Prohibitions

**6.—(1)** No person shall,

- (a) carry on business as a mortgage broker unless he is registered under this Act;
- (b) carry on business as a mortgage broker otherwise than in his registered name or elsewhere than at or from his registered address.

Idem

(2) No mortgage broker shall make or cause to be made any representation in writing that he is registered under this Act.

Offences

(3) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for a first offence, or to a fine of not more than \$1,000 and to imprisonment for a term of not more than six months for any subsequent offence, or, being a corporation, is liable to a fine of not more than \$5,000 for any subsequent offence. 1960, c. 68, s. 6.

Information  
to Superin-  
tendent

**7.** Every registered broker shall furnish the Superintendent with such information respecting his mortgage transactions as the Superintendent requires. 1960, c. 68, s. 7.

Order to  
investigate

**8.—(1)** Where upon a statement made under oath it appears probable to the Superintendent that any person has,

1953-54,  
c. 51 (Can.)

- (a) contravened this Act or the *Criminal Code* (Canada) in connection with his business as a mortgage broker; or
- (b) by any false, misleading or deceptive statement or advertisement, representation or promise, or by any dishonest concealment of material facts induced or attempted to induce any person to borrow money or to be responsible for the repayment thereof or to agree to the terms of any transaction with respect to money lent on the security of a mortgage,

the Superintendent may appoint the Registrar or any other person to make such investigation as he deems expedient for the due administration of this Act and any such order shall determine and prescribe the scope of the investigation.

Scope of  
investigation

(2) For the purposes of any such investigation, the person appointed to make the investigation may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into any books, papers,



documents, correspondence, communications, advertisements, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person and into any property, assets or things owned, acquired or alienated in whole or in part by such person or by any person acting on behalf of or as agent for such person.

(3) For the purposes of any such investigation, the person making the investigation is not bound by the rules of evidence and has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath, or otherwise, and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions, but,

Power to  
summon  
witnesses  
and require  
production

- (a) the provisions of rules of court or of law relating to the service of subpoenas upon and to the payment of conduct money or witness fees to witnesses do not apply;
- (b) no person is entitled to claim any privilege in respect of any document, record or thing asked for, given or produced on the ground that he might be incriminated or exposed to a penalty or to civil litigation thereby;
- (c) no person shall refuse to answer any question upon any ground of privilege, except that a solicitor shall not be required to disclose any communications between himself and his client; and
- (d) no provisions of *The Evidence Act* exempt any bank or any officer or employee thereof from the operation of this section.

R.S.O. 1960,  
c. 125

(4) The person appointed to make any such investigation may seize and take possession of any documents, records, securities or other property of the person whose affairs are being investigated that relate to any matter under investigation, but any person affected by such a seizure may, on notice, apply to a judge of the Supreme Court for an order exempting any document, record, security or other property so seized and the judge may make such order if he is of the opinion that the document, record, security or other property does not relate to the matter under investigation.

Seizure of  
property

(5) Where any such investigation is ordered, the Superintendent may appoint an accountant or other expert to examine documents, records, properties and matters of the person whose affairs are being investigated.

Accountant  
or other  
experts

Report of  
investigation

(6) Every person appointed under subsection 1 or 5 shall report the result of his investigation or examination to the Superintendent. 1960, c. 68, s. 8.

Order to  
hold or  
refrain from  
dealing with  
funds

9.—(1) The Superintendent may,

- (a) where he is about to investigate or during or after the investigation of any person under section 8; or
- (b) where criminal proceedings or proceedings in respect of a contravention of this Act are about to be or have been instituted against any person that in the opinion of the Superintendent are connected with or arise out of a mortgage transaction,

in writing or by telegram direct any person having on deposit or under control or for safe keeping any funds or securities of the person referred to in clause *a* or *b*, to hold such funds or securities or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such funds or securities from any other person having any of them on deposit, under control or for safe keeping or to hold such funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act* or the *Winding-up Act* (Canada), or until the Superintendent in writing revokes such direction or consents to release any particular fund or security from such direction, provided that in the case of a bank, loan or trust company the direction only applies to the offices, branches or agencies thereof named in the direction.

R.S.C. 1952,  
c. 14  
R.S.O. 1960,  
cc. 197, 71  
R.S.C. 1952,  
c. 296

Application  
for direction

(2) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any funds or security, or in case of a claim being made thereto by any person not named in the direction, may apply to a judge of the Supreme Court who may direct the disposition of such funds or security and may make such order as to costs as seems just.

Notice to  
registrars  
of deeds

(3) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Superintendent may in writing or by telegram notify any registrar of deeds or master of titles or any local master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, which notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* or a caution, save that the Superintendent may in writing revoke or modify the notice. 1960, c. 68, s. 9.

**10.**—(1) If a person registered under this Act has been found to have done any of the things mentioned in clauses *a* and *b* of subsection 1 of section 8 or if for any other reason the Superintendent is of the opinion that his registration is not in the public interest, the Superintendent may suspend or cancel or refuse to renew his registration. <sup>Suspension, cancellation, etc., of registration</sup>

(2) Upon the suspension of, cancellation of or the refusal to renew a registration, the Registrar shall cause notice in writing thereof to be delivered to the person concerned. 1960, c. 68, s. 10. <sup>Notice</sup>

**11.**—(1) Any person whose registration or right to registration is affected by a decision of the Superintendent may, by notice in writing served upon the Superintendent within thirty days after the delivery of the notice under section 10, request a hearing and review of the matter by the Superintendent. <sup>Review</sup>

(2) Where a hearing and review are requested, the Superintendent shall send a notice in writing to the person who requested the review notifying him of the time and place of the hearing. <sup>Notice of hearing</sup>

(3) Upon a review, the Superintendent shall hear such evidence as is submitted to him that in his opinion is relevant to the matter in dispute, and he is not bound by any law respecting the admissibility of evidence, and all oral evidence submitted shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by him, form the record. <sup>Evidence</sup>

(4) Upon a review, the Superintendent may confirm or revoke his former decision or may make any other decision he deems proper. <sup>Powers on review</sup>

(5) Notice of his decision made upon a review shall be delivered forthwith to the person that requested the review. 1960, c. 68, s. 11. <sup>Decision to be delivered</sup>

**12.**—(1) Where the Superintendent has reviewed a decision and given his decision upon the review, the person that requested the review may appeal to a justice of appeal of the Court of Appeal. <sup>Appeal</sup>

(2) Every appeal shall be by notice of motion served upon the Superintendent within thirty days after the delivery of the decision under subsection 5 of section 11, and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action. <sup>Form of appeal</sup>



Certificate  
of Superin-  
tendent

(3) The Superintendent shall certify to the Registrar of the Supreme Court,

- (a) the decision that has been reviewed by him;
- (b) his decision upon the review, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to him and other material that in his opinion are relevant to the appeal.

Counsel

(4) The Attorney General may designate counsel to assist the judge upon the hearing of an appeal under this section.

Order of  
judge

(5) Where an appeal is taken under this section, the judge may by his order direct the Superintendent to make such decision as the Superintendent is authorized to do under this Act and as the judge deems proper and thereupon the Superintendent shall act accordingly.

Further  
decision

(6) The order of the judge is final and there is no appeal therefrom, but, notwithstanding the order, the Superintendent has power to make any further decision upon new material or where there is a material change in the circumstances, and every such further decision is subject to section 11 and this section. 1960, c. 68, s. 12.

Evidence

**13.** The production of a certificate purporting to be signed by the Superintendent or the Registrar is admissible in evidence in any court as *prima facie* proof of its contents without proof of the appointment or signature of the Superintendent or Registrar, as the case may be. 1960, c. 68, s. 13.

Exemptions

**14.** This Act does not apply to,

R.S.O. 1960,  
cc. 190, 222,  
194

- (a) corporations registered under *The Insurance Act*, *The Loan and Trust Corporations Act* or *The Investment Contracts Act*;

1953-54,  
c. 48 (Can.)

- (b) banks under the *Bank Act* (Canada);
- (c) credit unions;

R.S.O. 1960,  
c. 71

- (d) non-resident insurance companies loaning on the security of first mortgages or acquiring first mortgages of Ontario real estate by virtue of a licence in mortmain or under section 347 of *The Corporations Act*. 1960, c. 68, s. 14.

**15.** The Lieutenant Governor in Council may make regulations,

- (a) exempting persons or classes of persons from this Act in addition to those exempted under section 14;
  - (b) respecting the method of registration;
  - (c) prescribing the fee payable on application for registration, registration and renewal of registration;
  - (d) requiring the keeping of such books and records as may be prescribed;
  - (e) prescribing forms and providing for their use;
  - (f) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. 1960, c. 68, s. 15.
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## CHAPTER 245

## The Mortgages Act

## 1. In this Act,

Interpre-  
tation

- (a) "conveyance" includes assignment, appointment, lease, settlement and other assurance and covenant to surrender made by deed on a sale, mortgage, demise or settlement of any property or on any other dealing with or for any property; and "convey" has a corresponding meaning;
- (b) "encumbrance" includes a mortgage in fee or for a less estate, a trust for securing money, a lien, and a charge of a portion, annuity or other capital or annual sum; and "encumbrancer" has a corresponding meaning, and includes every person entitled to the benefit of an encumbrance, or to require payment or discharge thereof;
- (c) "land" includes tenements and hereditaments, corporeal or incorporeal, houses and other buildings, and also an undivided share in land;
- (d) "mortgage" includes any charge on any property for securing money or money's worth; "mortgage money" means money or money's worth secured by a mortgage; "mortgagor" includes any person deriving title under the original mortgagor or entitled to redeem a mortgage, according to his estate, interest or right in the mortgaged property; and "mortgagee" includes any person deriving title under the original mortgagee. R.S.O. 1950, c. 239, s. 1.

## PART I

## RIGHTS AND OBLIGATIONS OF MORTGAGORS AND MORTGAGEES

2.—(1) Notwithstanding any stipulation to the contrary where a mortgagor is entitled to redeem he may require the mortgagee, instead of giving a certificate of payment or reconveying and on the terms on which he would be bound to reconvey, to assign the mortgage debt and convey the mortgaged property to any third person as the mortgagor directs, and the mortgagee is bound to assign and convey accordingly.

Obligation  
on mortgagee  
to transfer  
instead of  
reconveying

Idem

(2) The right of the mortgagor to require an assignment belongs to and is capable of being enforced by each encumbrancer or by the mortgagor, notwithstanding any intermediate encumbrance; but a requisition of an encumbrancer prevails over that of the mortgagor, and as between encumbrancers a requisition of a prior encumbrancer prevails over that of a subsequent encumbrancer.

Exception

(3) This section does not apply if the mortgagee is or has been in possession. R.S.O. 1950, c. 239, s. 2.

Right of mortgagor to inspect title deeds

3. Notwithstanding any stipulation to the contrary a mortgagor, as long as his right to redeem subsists, is entitled, at reasonable times, on his request, and at his own cost and on payment of the mortgagee's costs and expenses in that behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee. R.S.O. 1950, c. 239, s. 3.

Action for possession of land by mortgagor

4. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land, as to which no notice of his intention to take possession or to enter into receipt of the rents and profits thereof has been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person. R.S.O. 1950, c. 239, s. 4.

Application of insurance money

5.—(1) All money payable to a mortgagor on an insurance of the mortgaged property, including effects, whether affixed to the freehold or not, being or forming part thereof, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

Idem

(2) Without prejudice to any obligation to the contrary imposed by law or by special contract, a mortgagee may require that all money received on an insurance of the mortgaged property be applied in or towards the discharge of the money due under his mortgage. R.S.O. 1950, c. 239, s. 5.

Covenants to be implied:

6. There shall, in the several cases mentioned in this section, be deemed to be included, and there shall in those several cases be implied, covenants to the effect stated in this section, by the person or by each person who conveys, as far as

regards the subject-matter or share thereof expressed to be conveyed by him with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say,

- (a) in a conveyance by way of mortgage, the following <sup>on mortgage by beneficial owner</sup> covenants by the person who conveys, and is expressed to convey as beneficial owner, namely,

- (i) for payment of the mortgage money and interest, and observance in other respects of the proviso in the mortgage,
- (ii) for good title,
- (iii) for right to convey,
- (iv) that, on default, the mortgagee shall have quiet possession of the land, free from all encumbrances,
- (v) that the mortgagor will execute such further assurances of the said lands as may be requisite, and
- (vi) that the mortgagor has done no act to encumber the land mortgaged,

according to the forms of covenants for such purposes set forth in Schedule B to *The Short Forms of Mortgages Act*, subject to the provisions of that Act; <sup>R.S.O. 1960, c. 374</sup>

- (b) in a conveyance by way of mortgage of leasehold <sup>on mortgage of leaseholds, by beneficial owner</sup> property, the following further covenants by the person who conveys and is expressed to convey, as beneficial owner, namely,

- (i) that the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid and effectual lease or grant of the land conveyed, and is in full force, unforfeited, and unsurrendered, and in no wise become void or voidable, and that all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed up to the time of conveyance, and



- (ii) that the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains on the security of the conveyance, pay, observe and perform, or cause to be paid, observed and performed, all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, and will keep the person to whom the conveyance is made and those deriving title under him indemnified against all actions, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them by reason of the non-payment of such rent, or the non-observance or non-performance of such covenants, conditions and agreements, or any of them. R.S.O. 1950, c. 239, s. 6.

Implied covenants in mortgages are joint and several

7. In a mortgage, where more persons than one are expressed to convey as mortgagors, or to join as covenantors, the implied covenants on their part shall be deemed to be joint and several covenants by them, and where there are more mortgagees than one the implied covenant with them shall be deemed to be a covenant with them jointly unless the amount is expressed to be secured to them in shares or distinct sums, in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him. R.S.O. 1950, c. 239, s. 7.

Release of equity of redemption without merger of debt

8.—(1) A mortgagee of freehold or leasehold property may take and receive from the mortgagor a release of the equity of redemption in the property, or may purchase the same under any judgment or decree or execution without thereby merging the mortgage debt as against any subsequent mortgagee or person having a charge on the same property.

Position of subsequent mortgagee

(2) Where a prior mortgagee so acquires the equity of redemption of the mortgagor no subsequent mortgagee is entitled to foreclose or sell the property without redeeming or selling, subject to the rights of such prior mortgagee, in the same manner as if such prior mortgagee had not acquired the equity of redemption.

Priority under registry

(3) This section does not affect any priority or claim any mortgagee may have under the registry laws. R.S.O. 1950, c. 239, s. 8.

9. Where a person entitled to any freehold land by way of mortgage has died, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land, and such executor or administrator has the same power as to any part of the land on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole or any part of the mortgaged land, without payment of money, and such conveyance, assignment, release or discharge is as effectual as if the same had been made by the persons having the mortgagee's estate. R.S.O. 1950, c. 239, s. 9.

Powers of  
executors of  
mortgagee

10.—(1) In this section, "court" means the Supreme Court or the county or district court of the county or district in which the land or any part thereof is situate. 1952, c. 61, s. 1 (1).

Interpre-  
tation

(2) The payment in good faith of any money to and the receipt thereof by the survivor or survivors of two or more mortgagees, or the executors or administrators of such survivor, or their or his assigns, effectually discharges the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the security.

Effect of  
receipts of  
surviving  
mortgagee,  
etc.

(3) When a mortgagor or any person entitled to pay off a mortgage desires to do so and the mortgagee, or one of several mortgagees, cannot be found or when a sole mortgagee or the last surviving mortgagee is dead and no probate of his will has been granted or letters of administration issued, or where from any other cause a proper discharge cannot be obtained, or cannot be obtained without undue delay, the court may permit payment into court of the amount due upon the mortgage and may make an order discharging the mortgage.

Where  
mortgage  
cannot be  
found

(4) The money paid into court shall be paid out of court with any accrued interest to the mortgagee or mortgagees or to the executor or administrator of the mortgagee or as the court by order for payment into court or any subsequent order may direct.

Payment  
out of  
money paid  
into court  
etc.

(5) The court may require notice to be given by advertisement or as may be deemed proper to the mortgagee or those claiming under him either before or after making the order.

Notice to  
mortgagee

When  
amount  
offered  
questioned

(6) When the amount admitted to be due upon the mortgage appears to be open to question the court may as a condition of making the order require payment into court of a sum in excess of the amount admitted to be due and in such case the additional sum is subject to the further order of the court.

Provision for  
subsequent  
interest and  
costs

(7) The court may require payment into court of an additional sum to answer any claim by the mortgagee for subsequent interest and costs.

Death of  
mortgagee,  
order for  
discharge

(8) When a mortgagee has died and all money due upon the mortgage was paid to him in his lifetime or has been paid to a person entitled to receive the same after his death or where in any other case it appears that all money due upon the mortgage has been paid and for any reason a discharge or reconveyance cannot be obtained without undue delay and expense the court may make an order discharging the mortgage.

Registration  
of order  
discharging

(9) Upon the registration of an order discharging a mortgage it has the same effect as the registration of a certificate of discharge signed by the mortgagee would have under *The Registry Act*. R.S.O. 1950, c. 239, s. 10 (2-9).

R.S.O. 1960,  
c. 348

Appeal

(10) An appeal lies to the Court of Appeal from any order made under this section. 1952, c. 61, s. 1 (2).

Defence  
of purchase  
for value  
without  
notice

**11.** The purchaser in good faith of a mortgage may, to the extent of the mortgage, and except as against the mortgagor, set up the defence of purchase for value without notice in the same manner as a purchaser of the mortgaged property might do. R.S.O. 1950, c. 239, s. 11.

Exemption  
from  
liability to  
distress

**12.** Notwithstanding any stipulation in the mortgage to the contrary, the right of a mortgagee to distrain for interest in arrear upon a mortgage is limited to the goods and chattels of the mortgagor, and to such of them as are not exempt from seizure under execution. R.S.O. 1950, c. 239, s. 12.

Limitation  
upon right  
to distrain

**13.—(1)** As against creditors of a mortgagor, or person in possession of mortgaged premises under a mortgagor, the right, if any, to distrain upon the mortgaged premises for arrears of interest or for rent, in the nature of or in lieu of interest under the provisions of any mortgage is restricted to one year's arrears of such interest or rent.

When  
restriction  
to apply

(2) This restriction does not apply unless some one of such creditors is an execution creditor, or unless there is an assignee for the general benefit of such creditors appointed before lawful sale of the goods and chattels distrained, nor



unless the officer executing such writ of execution or such assignee, by notice in writing to be given to the person distraining or his attorney, bailiff, or agent before such lawful sale, claims the benefit of this restriction.

(3) When such notice is given, the distrainor shall relinquish to the officer or assignee the goods and chattels so distrained, upon receiving one year's arrears of such interest or rent and his reasonable costs of distress, or if such arrears and costs are not paid or tendered he shall sell only so much of the goods and chattels distrained as is necessary to satisfy one year's arrears of such interest or rent and the reasonable costs of distress and sale, and shall thereupon relinquish any residue of them, and pay any residue of money, proceeds thereof so distrained, to such officer or assignee.

Duty of  
distrainor  
when  
restriction  
applies

(4) An officer executing an execution, or an assignee who pays any money to relieve goods and chattels from distress under this section, is entitled to reimburse himself therefor out of the proceeds of the sale thereof. R.S.O. 1950, c. 239, s. 13.

Reimburse-  
ment of  
officer or  
assignee

**14.** Goods and chattels distrained by a mortgagee shall not be sold except after such public notice as is required to be given by a landlord who sells goods and chattels distrained for rent. R.S.O. 1950, c. 239, s. 14.

Notice of  
sale

**15.—(1)** Notwithstanding any agreement to the contrary, where default has been made in the payment of any principal money secured by a mortgage of freehold or leasehold property, the mortgagor or person entitled to make such payment may at any time, upon payment of three months interest on the principal money so in arrear, pay the same, or he may give the mortgagee at least three months notice, in writing, of his intention to make such payment at a time named in the notice, and in the event of his making such payment on the day so named he is entitled to make the same without any further payment of interest except to the date of payment.

Payment of  
principal  
upon default

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice, he is thereafter entitled to make such payment only on paying the principal money so in arrear and interest thereon to the date of payment together with three months interest in advance.

Exception

(3) Nothing in this section affects or limits the right of the mortgagee to recover by action or otherwise the principal money so in arrear after default has been made. R.S.O. 1950, c. 239, s. 15.

Saving

Right to  
redeem  
after 5 years

**16.**—(1) Where any principal money or interest secured by a mortgage of freehold or leasehold property is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then, if at any time after the expiration of such five years any person liable to pay or entitled to redeem tenders or pays to the person entitled to receive the money the amount due for principal money and interest to the time of such tender or payment, together with three months further interest in lieu of notice, no further interest is chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage.

Exceptions

(2) This section does not apply to any mortgage given by a joint stock company or other corporation nor to any debenture issued by any such company or corporation for the payment of which security has been given on freehold or leasehold property. R.S.O. 1950, c. 239, s. 16.

Paying off  
mortgage  
when pro-  
vision made  
for a lower  
rate for  
punctual  
payment

**17.**—(1) Where provision is made in a mortgage that if interest is paid promptly it will be accepted at a lower rate than that provided in the mortgage, and interest at the lower rate has been paid according to such condition up to the time when all the principal money has become payable, any person liable to pay or entitled to redeem is entitled to pay the principal money and interest on the same at the lower rate at any time after the time for payment of the principal money on giving three months notice of his intention to make such payment or on paying three months interest at such lower rate in lieu of notice.

Mortgagor  
failing to pay  
according to  
notice

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice, he is thereafter entitled to make such payment only on paying the principal and interest at the lower rate to the date of payment, together with three months interest in advance. R.S.O. 1950, c. 239, s. 17.

Interpre-  
tation

**18.**—(1) In this section, "original mortgagor" means any person who by virtue of privity of contract with the mortgagee is personally liable to the mortgagee to pay the whole or any part of the moneys secured by the mortgage.

Right of  
mortgagee  
to recover  
personal  
judgment

(2) Notwithstanding any stipulation to the contrary in a mortgage, where a mortgagor has conveyed and transferred the equity of redemption to a grantee under such circumstances that the grantee is by express covenant or otherwise obligated to indemnify the mortgagor with respect to the mortgage, the mortgagee has the right to recover from the grantee the amount of the mortgage debt in respect of which

the grantee is obligated to indemnify the mortgagor; provided that the right of the mortgagee to recover the amount of the mortgage debt under this section from the grantee of the equity of redemption shall as against such grantee terminate on the registration of a grant or transfer of the equity of redemption by such grantee to another person unless prior to such registration an action has been commenced to enforce the right of the mortgagee.

(3) Where a mortgagee has the right to recover the whole or any part of moneys secured by a mortgage from an original mortgagor and also has a right by virtue of this section to recover from a grantee of the equity of redemption from a mortgagor, if the mortgagee recovers judgment for the amount of the mortgage debt against the original mortgagor, the mortgagee thereupon forever ceases to have a right to recover under this section from a grantee, and if the mortgagee recovers judgment under this section against a grantee he thereupon forever ceases to have a right to recover from the original mortgagor; provided that where there is more than one original mortgagor this section does not affect the right of a mortgagee after the recovery of judgment against one original mortgagor to recover judgment against the other original mortgagor or mortgagors. R.S.O. 1950, c. 239, s. 18.

**19.—**(1) In this section, “building mortgage” means any mortgage made for the purpose of financing the construction of a building.

(2) Where, in any building mortgage made on or after the 1st day of July, 1942, it is expressly stated that it is a building mortgage made pursuant to this section, no action may be brought by the mortgagee after the expiration of one year from the date of the maturity of the mortgage whereby to recover payment from the person who executed the mortgage, of the whole or any part of the moneys therein secured, if such person has made a *bona fide* sale of the property and has conveyed and transferred the equity of redemption to a grantee under such circumstances that the grantee is by express covenant or otherwise obligated to indemnify such person with respect to the mortgage. R.S.O. 1950, c. 239, s. 19.

**20.—**(1) Notwithstanding any agreement to the contrary, where default has occurred in making any payment of principal or interest due under a mortgage or in the observance of any covenant in a mortgage and under the terms of the mortgage, by reason of such default, the whole principal and interest secured thereby has become due and payable,



- (a) at any time before sale under the mortgage or before the commencement of an action for the enforcement of the rights of the mortgagee or of any person claiming through or under him, the mortgagor may perform such covenant or pay the amount of moneys due under the mortgage, exclusive of the money not payable by reason merely of lapse of time, and pay any expenses necessarily incurred by the mortgagee, and thereupon he is relieved from the consequences of such default; or
- (b) in an action for enforcement of the rights of the mortgagee or of any person claiming through or under him, upon performance of such covenant or upon payment of the moneys due under the mortgage, exclusive of the money not payable by reason merely of lapse of time, and upon payment of the costs of the action, the mortgagor may apply to the court for relief, and
  - (i) if judgment has not been recovered the court shall dismiss the action, or
  - (ii) if judgment has been recovered but no sale or recovery of possession of the land or final foreclosure of the equity of redemption has taken place the court may stay proceedings in the action. 1953, c. 66, s. 1 (1), *part*.

Stay of proceedings on application of subsequent encumbrancer

(2) Notwithstanding subclause ii of clause *b* of subsection 1, where judgment has been recovered and recovery of possession of the land has taken place, the court may stay proceedings in the action upon the application of a person having a subsequent lien, charge or encumbrance, made under subsection 1 within ten days after service of notice of the judgment has been made upon him.

Subsequent default

(3) Where proceedings have been stayed under subclause ii of clause *b* of subsection 1 or under subsection 2 and default again occurs under the mortgage, the court upon application may remove the stay. 1958, c. 61, s. 1.

Application

(4) This section applies to mortgages existing on or made after the 2nd day of April, 1953. 1953, c. 66, s. 1 (2), *amended*.

## PART II

### STATUTORY POWERS

Powers incident to mortgages after default for certain time:

**21.** Where any principal money is secured by mortgage of land, the mortgagee, at any time after the expiration of four months from the time when the principal money has become

payable, according to the terms of the mortgage, or after any interest on the principal money has been in arrear for six months, or after any omission to pay any premium on any insurance which, by the terms of the mortgage, ought to be paid by the mortgagor, has the following powers to the like extent as if they had been in terms conferred by the mortgage but not further, namely,

- (a) a power to sell, or concur with any other person in selling, the whole or any part of the mortgaged property by public auction or private contract subject to any reasonable conditions he may think fit to make, and to buy in at an auction and to rescind or vary contracts for sale, and to resell the land, from time to time, in like manner without being answerable for any loss occasioned thereby; <sup>power of sale</sup>
- (b) a power to insure and keep insured against loss or damage by fire any building or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the mortgaged property, and the premiums paid for any such insurance are a charge on the mortgaged property, in addition to the mortgage money and with the same priority and with interest at the same rate as the mortgage money. <sup>power to insure</sup> R.S.O. 1950, c. 239, s. 20.

**22.** A receipt for purchase money given by the person exercising the power of sale conferred by section 21 is a sufficient discharge to the purchaser, who is not bound to see to the application of the purchase money. <sup>Receipts for purchase money sufficient discharges</sup> R.S.O. 1950, c. 239, s. 21.

**23.—(1)** No sale under the power conferred by section 21 shall be made until after two months notice in writing (Form 1) has been given to every subsequent encumbrancer, and to the mortgagor, either personally or at his usual or last place of residence in Ontario. <sup>Notice before sale</sup>

(2) The notice may be given at any time after any default in making a payment provided for by the mortgage. <sup>When to be given</sup>

(3) In case of the death of the person entitled subject to the mortgage, and of his interest passing to an infant, the notice shall be given to his personal representative as well as to the infant. <sup>Case of an infant</sup>

(4) The notice to the infant shall be served upon his guardian, and if he has no guardian upon the Official Guardian, and in every case upon the infant himself if over the age of twelve years. <sup>Service upon infant</sup> R.S.O. 1950, c. 239, s. 22.

Title of  
purchaser

**24.** Where a conveyance has been made in professed exercise of the power of sale conferred by section 21, the title of the purchaser is not liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that such power had been improperly or irregularly exercised, or that such notice has not been given; but any person damnified by an unauthorized, improper or irregular exercise of the power has his remedy against the person exercising the power. R.S.O. 1950, c. 239, s. 23.

Application  
of purchase  
money

**25.** The money arising from the sale shall be applied by the person receiving the same as follows:

Firstly, in payment of all the expenses incident to the sale or incurred in any attempted sale;

Secondly, in discharge of all interest and costs then due in respect of the mortgage under which the sale was made;

Thirdly, in discharge of all the principal money then due in respect of the mortgage; and

R.S.O. 1960,  
c. 113

Fourthly, subject to the provisions of section 9 of *The Dower Act*, in payment of the amounts due to the subsequent encumbrancers according to their priorities,


and the residue shall be paid to the mortgagor. R.S.O. 1950, c. 239, s. 24.

Conveyance  
to the  
purchaser

**26.** The person exercising the power of sale has power to convey or assign to and vest in the purchaser the property sold for all the estate and interest therein of the mortgagor and of which he had power to dispose. R.S.O. 1950, c. 239, s. 25.

Right to title  
deeds and  
conveyance  
of legal  
estate

**27.** At any time after the power of sale has become exercisable, the person entitled to exercise the same is entitled to demand and recover from the mortgagor all deeds and documents in his possession or power relating to the mortgaged property, or to the title thereto, which he would have been entitled to demand and recover if the property had been conveyed, appointed, surrendered or assigned to and was then vested in him for all the estate and interest of the mortgagor and of which he had power to dispose, and where the legal estate is outstanding in a trustee the mortgagee, or any purchaser from him, is entitled to call for a conveyance of the legal estate to the same extent as the mortgagor could have called for such a conveyance if the mortgage had not been made. R.S.O. 1950, c. 239, s. 26.





**28.** So much of this Part as confers a power to sell does not apply in the case of a mortgage that contains a power of sale except as provided in section 29, and so much as confers a power to insure does not apply in the case of a mortgage that contains a power to insure; nor do any of the provisions of this Part apply to a mortgage that contains a declaration that this Part does not apply thereto. R.S.O. 1950, c. 239, s. 27. Application  
of Part II

**29.—(1)** Where a mortgage made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale in the form of words numbered 14 in Column One of Schedule B to that Act, the mortgagee may, in exercising the power, in lieu of taking the proceedings provided for by such form in Column Two of that Schedule, take proceedings under and have the benefit of the provisions of this Part, except that such power is not exercisable until after at least four months default and at least two months notice, or such longer periods as may by the power contained in such mortgage be fixed therefor, and this Part applies to a sale made under such power. Mortgagee's  
option as  
to pro-  
ceedings  
R.S.O. 1960,  
c. 374

**(2)** Where a mortgage purporting to be made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale that provides for a sale without notice, the mortgagee may take proceedings to sell under and have the benefit of the provisions of this Part as fully and effectually as if the mortgage had not contained a power of sale. R.S.O. 1950, c. 239, s. 28. Idem

### PART III

#### GENERAL PROVISIONS AS TO POWER OF SALE

**30.** A notice of exercising a power of sale shall state the amounts claimed to be due for principal, interest and costs respectively. R.S.O. 1950, c. 239, s. 29. Contents  
of notice

**31.—(1)** Where, pursuant to any condition or proviso contained in a mortgage, there has been made or given a demand or notice either requiring payment of the money secured by the mortgage, or any part thereof, or declaring an intention to proceed under and exercise the power of sale therein contained, no further proceeding and no action either to enforce the mortgage, or with respect to any clause, covenant or provision therein contained, or to the mortgaged property or any part thereof, shall, until after the lapse of the time at or after which, according to such demand or notice, payment of the money is to be made or the power of sale is to be exercised or proceeded under, be commenced or taken until an order permitting the same has been obtained from a Restrictions  
as to pro-  
ceedings

judge of the county or district court of the county or district in which the mortgaged property or any part thereof is situate, or from a judge of the Supreme Court.

Proof on which order may be granted

(2) The order may be obtained *ex parte* or upon such notice as the judge may direct upon such proof as satisfies the judge that it is reasonable and equitable that the proposed action or proceeding should be permitted.

Exception

(3) This section does not apply to proceedings to stay waste or other injury to the mortgaged property. R.S.O. 1950, c. 239, s. 30.

Payment made in terms of notice

**32.**—(1) Where such demand or notice requires payment of all money secured by or under a mortgage, the person making such demand or giving such notice is bound to accept and receive payment of the same if made as required by the terms of such demand or notice.

Payment or tender of costs

(2) If there is a dispute as to the costs payable by the person by or on whose behalf such payment is either made or tendered, such costs shall, on three clear days notice to such person by the person claiming the same, be taxed and ascertained by the clerk of the county or district court, or by the local master of the county or district in which the mortgaged property or any part thereof is situate.

Compliance with demand

(3) Where the time limited by the demand or notice requiring payment expires before the taxation of the costs has been completed, the amount due apart from the costs claimed may be paid, and payment of the amount allowed for costs within ten days after the issue of a certificate of taxation shall be deemed a compliance with the demand or notice.

Costs, taxation

(4) A mortgagee's costs of and incidental to the exercise of a power of sale, whether under this Part or otherwise, may, without an order, be taxed by one of the taxing officers of the Supreme Court at Toronto or by a local master having jurisdiction in the county or district in which the mortgaged property or any part of it is situate at the instance of any person interested.

Discretion as to costs

(5) The costs of the taxation shall be in the discretion of the taxing officer. R.S.O. 1950, c. 239, s. 31.

FORM 1

(Section 23)

NOTICE OF SALE UNDER MORTGAGE

I hereby require you on or before the..... day of.....19.....,  
(a day not less than two calendar months from the service of the notice, and  
not less than six months after the default), to pay off the principal money  
and interest secured by a certain mortgage dated the.....day of  
.....19....., and expressed to be made between (here state parties and  
describe mortgaged property), which mortgage was registered on the.....  
day of.....19....., (and if the mortgage has been assigned add: and has  
since become the property of the undersigned). And I hereby give you  
notice that the amounts due on the mortgage for principal, interest and  
costs respectively, are as follows: (set the same forth).

And unless the principal money, interest and costs are paid on or before  
the.....day of.....19....., I shall sell the property com-  
prised in the mortgage under the authority of *The Mortgages Act*.

Dated the.....day of.....19.....

R.S.O. 1950, c. 239, Form I.





## CHAPTER 246

### The Mortmain and Charitable Uses Act

1.—(1) In this Act,

Interpre-  
tation

- (a) “assurance” includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, encumbrance, devise, bequest and every other assurance by deed, will or other instrument, and “assure” and “assuror” have a corresponding meaning;
- (b) “full and valuable consideration” includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rent charge, or other annual payment, in perpetuity, or for any term of years, or other period, with or without a right of re-entry for non-payment thereof, or partly paid and partly reserved, as aforesaid;
- (c) “land” includes tenements and hereditaments corporeal and incorporeal of whatever tenure, but not money secured on land, or other personal estate arising from or connected with land;
- (d) “will” includes codicil. R.S.O. 1950, c. 241, s. 1 (1); 1953, c. 68, s. 1.

(2) The following shall be deemed to be charitable uses within the meaning of this Act:

Charitable  
uses

- (a) the relief of poverty;
- (b) education;
- (c) the advancement of religion; and
- (d) any purpose beneficial to the community, not falling under the foregoing heads. R.S.O. 1950, c. 241, s. 1 (2).

#### MORTMAIN

2.—(1) Land shall not be assured to or for the benefit of or acquired or held by or on behalf of any corporation in mortmain otherwise than under the authority of a licence or of a statute for the time being in force.

Prohibition  
against  
mortmain

## Forfeiture

(2) Where land is assured, acquired or held contrary to subsection 1, it shall be forfeited to the Crown upon the expiration of at least six months after notice in writing is given to the corporation of the intention of the Crown to claim the land and upon the Crown registering in the proper registry or land titles office a similar notice against the land.

## Effect of registration of notice

(3) Upon the registration of such notice against the land, it shall be deemed to be a charge against the land.

## Release or vacation

(4) Such a charge may be released or vacated at any time upon the registration in the proper registry or land titles office of a release or cessation, as the case may be, of the charge.

## Right of disposal

(5) The corporation may dispose of the land free from and clear of any forfeiture or any liability to forfeiture under this section until the expiration of the six months period mentioned in subsection 2 and until the notice mentioned in subsection 2 is registered against the land.

## Application of subss. 2-5

(6) Subsections 2 to 5 apply to land that was before the 30th day of April, 1954, assured to or for the benefit of or acquired or held by or on behalf of any corporation in mortmain otherwise than under the authority of a licence or of a statute for the time being in force, except where the Crown has entered on and held the land before that date, and to land so assured, acquired or held on or after that date. 1953, c. 68, s. 2, *part.*

## Saving for rents and services

**3.** No forfeiture to the Crown under section 2 merges or extinguishes or otherwise affects any rent or service that may be due to the Crown in respect of any land. 1953, c. 68, s. 2, *part.*

## Power to issue licences in mortmain

**4.—(1)** The Lieutenant Governor may in his discretion issue to any person or corporation a licence in such form as he thinks fit to assure land in mortmain in perpetuity or otherwise, and may in his discretion issue to any corporation a licence to acquire land in mortmain, and to hold such land in perpetuity or otherwise.

## Powers of Provincial Secretary

(2) The Provincial Secretary may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred on the Lieutenant Governor by subsection 1.

## Proof to be furnished on application

(3) Upon the application for a licence issued under this Act, the applicant shall establish to the satisfaction of the Provincial Secretary, or such officer as may be charged by him to report thereon, that the provisions of this Act and the



regulations have been complied with, and the Provincial Secretary or such officer may, for that or for any other purpose under this Act, take evidence under oath.

(4) There shall be paid for a licence under this Act such fee <sup>Fees</sup> as is prescribed by the Lieutenant Governor in Council. 1953, c. 68, s. 2, *part.*

**5.** The Lieutenant Governor in Council may make regu- <sup>Regulations</sup> lations,

- (a) respecting the evidence required upon the application for a licence under this Act as to the incorporation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;
- (b) respecting the appointment and continuance by the corporation of a person as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) respecting the limitations and conditions that may be specified in licences;
- (d) respecting the form, duration and extent of licences, and the form of powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Act;
- (e) prescribing the form of the notices mentioned in subsection 2 of section 2 and of the release and cessation mentioned in subsection 4 of section 2;
- (f) prescribing fees for licences under this Act. 1953, c. 68, s. 2, *part, amended.*

#### CHARITABLE USES

**6.** Save as otherwise provided in this Act, every assurance, other than by will, of land or personal estate to be laid out in the purchase of land to or for the benefit of any charitable use shall be void unless made, <sup>Conditions under which assurances may be made to charitable uses</sup>

- (a) to take effect in immediate possession for such charitable use;
- (b) without any power of revocation, reservation, condition or provision for the benefit of the assurator or of any person claiming under him; and

- (c) at least six months before the death of the assurator, and if of stock in the public funds by transfer thereof in the public books kept for the transfer of stock at least six months before such death,

provided that the assurance or any instrument forming part of the same transaction may contain all or any of the following conditions, so however that they reserve the same benefits to persons claiming under the assurator as to the assurator himself, namely,

- (i) the grant or reservation of a peppercorn or other nominal rent;
- (ii) the grant or reservation of mines or minerals;
- (iii) the grant or reservation of any easement;
- (iv) covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, or as to drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;
- (v) a right of entry on non-payment of any such rent or on breach of any such covenant or provision; or
- (vi) any stipulations of the like nature for the benefit of the assurator or of any person claiming under him,

and provided that nothing in this section applies to or affects any such assurance made for full and valuable consideration. R.S.O. 1950, c. 241, s. 6.

Necessity  
for sale

7.—(1) Subject to the provisions hereinafter contained, where land is assured otherwise than by will to or for the benefit of any charitable use, the land shall, notwithstanding anything contained in the deed or other instrument of assurance, be sold within two years from the date of the assurance or within such extended period as may be determined by a judge of the Supreme Court.

Idem

(2) If the land is not sold within the two years or within such extended period, it vests forthwith in the Public Trustee and subsection 2 of section 10 applies thereto.

When  
sanctioned

(3) A judge of the Supreme Court, if satisfied that the land so assured is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention of the land. R.S.O. 1950, c. 241, s. 7.

EXEMPTIONS

8.—(1) In this section,

Interpre-  
tation

- (a) "public park" includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;
- (b) "school" means a school, or department of a school, at which education is given in literature, art, science or mathematics, or a vocational or technical school;
- (c) "schoolhouse" includes the teacher's dwelling house, the playground, if any, and the offices and premises belonging to or required for a school;
- (d) "public museum" includes buildings used, or to be used, for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical, scientific or philosophical inventions, instruments, models or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and other offices and premises used or to be used in connection therewith.

(2) Notwithstanding anything in this Act, land or personal estate to be laid out in the purchase of land, may be assured for the following purposes: Assurances  
for a public  
park, school,  
or museum

- (a) for a public park;
- (b) for a public museum;
- (c) for a public library;
- (d) for a school or schoolhouse.

(3) Land assured for the purposes of a school or schoolhouse and not required for actual use and occupation for such purposes or the part thereof not so required shall be sold within two years from the date of the assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 apply. R.S.O. 1950, c. 241, s. 8. Sale of land  
assured for  
school if not  
required for  
actual use

9. Sections 2 and 6 do not apply to the following assurances: Assurances  
for certain  
purposes

- (a) an assurance of land or personal estate to be laid out in the purchase of land, to or in trust for any incorporated university, college or school in Ontario, or for the support and maintenance of the students thereat;



- (b) an assurance, otherwise than by will, to trustees on behalf of any society or body of persons, incorporated or unincorporated, associated together for religious purposes, or for the promotion of education, art, literature, science or other like purposes, of land not exceeding two acres, for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected. R.S.O. 1950, c. 241, s. 9.

#### LAND DEVISED BY WILL

Power to devise land for charitable use

**10.**—(1) Land may be devised by will to or for the benefit of any charitable use, but, except in the cases provided for by sections 8 and 9 and except as otherwise provided herein, shall, notwithstanding anything to the contrary in the will, be sold within two years from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court.

Where land remains unsold after expiration of two years

(2) So soon as the two years or such extended period have expired without the completion of the sale of the land, the land vests forthwith in the Public Trustee who shall cause the land to be sold with all reasonable speed and after payment of the costs and expenses incurred in or connected with such sale and proceedings shall pay the proceeds to the trustees for the charity. R.S.O. 1950, c. 241, s. 10.

Personal estate directed to be laid out in land

**11.** Any personal estate by will directed to be laid out in the purchase of land to or for the benefit of any charitable use, shall, except as hereinafter provided, be held to or for the benefit of the charitable use as though there had been no direction to lay it out in the purchase of land. R.S.O. 1950, c. 241, s. 11.

Power to retain land in certain cases

**12.** A judge of the Supreme Court, if satisfied that land devised by will to or for the benefit of any charitable use, or proposed to be purchased out of personal estate by will directed to be laid out in the purchase of land, is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention or acquisition, as the case may be, of such land. R.S.O. 1950, c. 241, s. 12.

#### GIFTS AND REQUESTS TO CERTAIN PUBLIC BODIES

Power of certain public bodies to accept gifts to charitable uses

**13.**—(1) The Government of Ontario, a municipal corporation, a school board, a public library board or association, a public hospital board and trustees empowered to administer

or hold property for charitable uses may have, take, hold and enjoy by gift, grant, devise, conveyance or bequest real or personal property of any nature or kind and wherever situate, whether within or without Ontario, or the proceeds thereof upon the terms expressed in the gift, grant, devise, bequest or conveyance whereby the same is given, granted, devised, bequeathed or conveyed to such body.

(2) Any such body may, subject always to the provisions of the Act by or under the authority of which it exists and to any law regulating or limiting its power to contract debts, enter into an agreement for the holding, management, administration or disposition of any such property with the person giving, granting, conveying, devising or bequeathing the same to such public body upon such terms as may be agreed upon between the parties to any such gift, grant, devise, bequest or conveyance.

(3) Land so given, granted, devised, bequeathed or conveyed and not required for actual use and occupation for the purposes of the trust upon which it was given, granted, devised, conveyed or assured to such public body shall be sold within two years from the date of the gift, grant, devise, conveyance or assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 apply.

(4) This section applies to gifts, grants, devises, bequests and conveyances heretofore made as well as to such as may hereafter be made.

#### SUPPLEMENTAL

**14.—**(1) In every case of a breach or supposed breach of any trust created for charitable purposes, or whenever the direction or order of a court is deemed necessary for the administration of any trust for charitable purposes, any two or more persons may present a petition to the Supreme Court stating such complaint and praying such relief as the nature of the case may require, and the court may hear the petition in a summary way, and upon such affidavits or such other evidence as is produced upon the hearing, may determine the same, and make such order therein, and with respect to the costs of the application, as seem just, and any order so made is subject to appeal as if made in an action.

(2) Every such petition shall be signed by the persons preferring the same in the presence of and shall be attested by their solicitor, and shall be submitted to and may be allowed

by the Attorney General, and such allowance shall be certified by him before any such petition shall be presented. R.S.O. 1950, c. 241, s. 14.

Saving for  
existing  
licenses, etc.

**15.** Nothing in this Act applies so as to limit or restrict the right possessed by any corporation under any other Act, or affect any charter or licence in force at the passing of this Act enabling land to be assured or held in mortmain. R.S.O. 1950, c. 241, s. 15.



## CHAPTER 247

### The Mothers' and Dependent Children's Allowances Act

**1. In this Act,**

Interpre-  
tation

- (a) "allowance" means an allowance under this Act;
- (b) "beneficiary" means a person on behalf of whom an allowance is paid;
- (c) "dependent child" means a person who is under eighteen years of age and who resides with his mother or his dependent father in Ontario;
- (d) "dependent father" means a person who is the father of a dependent child and who is permanently unemployable by reason of mental or physical disability;
- (e) "dependent foster-child" means a person who is under eighteen years of age and who resides with his foster-mother in Ontario;
- (f) "Director" means the Director of the Welfare Allowances Branch of the Department of Public Welfare;
- (g) "field worker" means a person employed as such by the Department of Public Welfare;
- (h) "foster-mother" means the foster-mother of, or the person acting in *loco parentis* to, a dependent foster-child;
- (i) "Minister" means the Minister of Public Welfare;
- (j) "mother" means the mother of a dependent child;
- (k) "recipient" means a person to whom an allowance is paid;
- (l) "regional administrator" means a regional welfare administrator or any other employee of the Department of Public Welfare whom the Minister designates as such under this Act;
- (m) "regulations" means the regulations made under this Act. 1957, c. 73, s. 1; 1958, c. 62, s. 1.

Where  
allowance  
may be  
paid

**2.** An allowance may be paid,

(a) to a mother,

- (i) who is a widow, or
- (ii) whose husband is a dependent father, or
- (iii) whose husband has deserted her and has not been heard of for six months or more, or
- (iv) whose dependent child was born out of wedlock, where the mother is eighteen years or more of age and her dependent child is six months or more of age, or
- (v) who is divorced from the father of her dependent child and who has been awarded custody of the child, or
- (vi) whose husband is imprisoned in a penal institution and has been imprisoned therein for a continuous period of six months or more, and
- (vii) who resides in Ontario at the date of application, and
- (viii) who has resided in Ontario for at least one year immediately before the date of application, or, where she was absent from Ontario for any period of time during that year, a regional administrator is satisfied that the period of absence was of a temporary nature, and
- (ix) who remains in Ontario with her dependent child except where she has been given permission in writing by a regional administrator to be absent from Ontario for compassionate or other reasons satisfactory to him, and
- (x) who is, in the opinion of a regional administrator, a suitable person to receive an allowance; or

(b) to a dependent father,

- (i) who is a widower, or
- (ii) whose wife has deserted him and has not been heard of for six months or more, or
- (iii) whose wife is a patient in a sanatorium, hospital or other similar institution, or

- (iv) whose wife is imprisoned in a penal institution and has been imprisoned therein for a continuous period of six months or more, and
  - (v) who complies with the residence requirements set out in subclauses vii, viii and ix of clause a, and
  - (vi) who in the opinion of the regional administrator is a suitable person to receive an allowance; or
- (c) to a foster-mother,
- (i) who complies with the residence requirements set out in subclauses vii, viii and ix of clause a, and
  - (ii) who is, in the opinion of a regional administrator, a suitable person to act as foster-mother to her dependent foster-child. 1957, c. 73, s. 2; 1958, c. 62, s. 2.

**3.** For the purposes of subclause viii of clause a of section 2, <sup>Interpre-</sup> any period during which the mother was in receipt of public <sup>tation</sup> assistance in the form of direct relief paid to her or on her behalf by a province or municipality, other than Ontario or a municipality in Ontario, shall be deemed not to be a period of residence in Ontario. 1958, c. 62, s. 3.

**4.** No allowance shall be paid under this Act in respect of <sup>Qualifica-</sup> a dependent child or dependent foster-child who is not attend- <sup>tions for</sup> <sup>children</sup> ing school unless the child or foster-child,

- (a) is of pre-school age; or
- (b) is unable to attend school by reason of mental or physical disability; or
- (c) is on vacation from school and a regional administrator is satisfied that the child will return to school at the end of the vacation period. 1957, c. 73, s. 3.

**5.—(1)** In cases presenting special circumstances and in <sup>Special</sup> which investigation shows the advisability of an allowance <sup>cases</sup> being paid to an applicant who is not strictly eligible for an allowance under this Act, the Lieutenant Governor in Council may direct that an allowance be paid to the applicant.

(2) A regional administrator may determine the amount <sup>Allowance</sup> of any allowance directed to be paid under subsection 1 or <sup>may be</sup> <sup>varied</sup> any predecessor thereof and may from time to time vary the amount so determined. 1957, c. 73, s. 4.



Continuance  
of allowance  
in desertion  
cases

**6.**—(1) Where a recipient has qualified for an allowance under subclause iii of clause *a* or subclause ii of clause *b* of section 2 and the deserting husband or wife, as the case may be, is later found, a regional administrator may, in his discretion, continue payment of the allowance for a period of not more than three months after the month following that in which he or she is found.

Continuance  
of allowance  
in rehabili-  
tation cases

(2) Where a recipient has qualified for an allowance under subclause ii of clause *a* of section 2 and, in the opinion of a regional administrator, the husband may benefit from rehabilitation services under *The Rehabilitation Services Act*, the regional administrator may recommend the husband for such services and continue payment of the allowance to the mother for the period during which the husband receives such services. 1957, c. 73, s. 5.

R.S.O. 1960,  
c. 350

Duties of  
Director

**7.** The Director shall,

- (a) exercise general supervision over the administration of this Act and the regulations;
- (b) advise regional administrators as to the manner in which their duties are to be performed; and
- (c) act as chairman of the board of review. 1957, c. 73, s. 6.

Duties of  
regional adminis-  
trators

**8.** Every regional administrator shall,

- (a) receive applications for allowances; and
- (b) determine the eligibility of each applicant to receive an allowance and, where the applicant is eligible, determine the amount of the allowance and direct payment accordingly, and may from time to time vary any amount so determined. 1957, c. 73, s. 7.

Power  
to take  
affidavits  
R.S.O. 1960,  
c. 59

**9.** The Director, every regional administrator and every field worker is, in the performance of his duties, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1957, c. 73, s. 8.

Allowances

**10.** Allowances under this Act shall be determined having regard to the financial need of the applicant and shall be computed in accordance with the regulations. 1957, c. 73, s. 9.

Allowances  
and  
expenses

**11.** The allowances and expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. 1957, c. 73, s. 10.

**12.—**(1) No person shall knowingly obtain or receive an allowance that he is not entitled to obtain or receive under this Act and the regulations. <sup>Offences</sup>

(2) No person shall knowingly aid or abet another person to obtain or receive an allowance that such other person is not entitled to obtain or receive under this Act and the regulations. <sup>Idem</sup>

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 or to imprisonment for a term of not more than three months or to both fine and imprisonment. 1957, c. 73, s. 12. <sup>Idem</sup>

**13.** The Lieutenant Governor in Council may make regulations,

- (a) establishing a medical advisory board consisting of one or more persons and prescribing its powers and duties;
- (b) establishing a board of review consisting of the Director and two or more other persons and prescribing its powers and duties;
- (c) establishing classes of recipients and prescribing the maximum allowance that may be paid to recipients in each such class;
- (d) prescribing the manner of computing the amount of allowances;
- (e) fixing the intervals at which and the manner in which allowances are to be paid;
- (f) adding further qualifications to those specified in this Act for applicants for allowances;
- (g) governing the manner of making application for an allowance;
- (h) providing for the transfer, suspension and cancellation of allowances;
- (i) prescribing additional duties of the Director;
- (j) prescribing additional duties of regional administrators;
- (k) prescribing the powers and duties of field workers;
- (l) providing for the whole or part of the cost of providing medical and dental services to beneficiaries;

- (m) providing for the making of investigations respecting applicants for or beneficiaries of allowances;
- (n) prescribing the material or proof of any fact, including evidence under oath, that shall be furnished as a condition precedent to the payment of an allowance;
- (o) prescribing forms and providing for their use;
- (p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1957, c. 73, s. 13.



## CHAPTER 248

**The Motor Vehicle Fuel Tax Act****1. In this Act,**Interpre-  
tation

- (a) "Comptroller" means the Comptroller of Revenue;
- (b) "fuel" means any gas or liquid that may be used for the purpose of generating power for the propulsion of a motor vehicle, except such products as are excluded from this Act by the regulations;
- (c) "fuel tank" means that part of a motor vehicle in which fuel to propel it is kept;
- (d) "motor vehicle" means a machine operated, propelled or driven otherwise than by muscular power on a highway or in connection with the construction or maintenance of a highway;
- (e) "purchaser" means a person who, not being a registrant, receives fuel from a registrant, or means a registrant who receives fuel from a registrant in other than a storage tank, but "purchaser" does not include a person who receives fuel in a tank that is directly connected with a machine that is not a motor vehicle;
- (f) "registrant" means the holder of a registration certificate under this Act;
- (g) "regulations" means the regulations made under this Act;
- (h) "storage tank" means a receptacle that has a capacity of forty or more imperial gallons, but does not include a fuel tank;
- (i) "Treasurer" means the Treasurer of Ontario. 1956, c. 49, s. 1; 1957, c. 74, s. 1.

**2.—(1)** No person shall supply fuel, and no person shall receive fuel as a registrant, unless a registration certificate has been, upon his application, issued to him under this Act and unless such certificate is in force at the time of the supplying or receiving, as the case may be.

Registration  
certificates

- Application** (2) The application for a registration certificate shall be filed with the Comptroller and shall contain such information as he requires.
- Issue** (3) Subject to clause *a* of subsection 5, the registration certificate shall be issued by the Comptroller upon payment of \$1 by the applicant to the Treasurer.
- Expiry** (4) Subject to clause *b* of subsection 5, every registration certificate remains in force until the 31st day of March next following the date of its issue and is not transferable.
- Refusal to issue and cancellation** (5) The Comptroller may,
- (a) refuse to issue a registration certificate to any applicant; or
  - (b) suspend or cancel any registration certificate if the person to whom it was issued or any of his employees contravenes any of the provisions of this Act,
- but before a refusal, suspension or cancellation is made, the applicant of such person, as the case may be, shall be afforded an opportunity to appear before the Comptroller to show cause why the issuance of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, as the case may be.
- Penalty** (6) Every person who contravenes subsection 1 shall pay to the Treasurer a penalty of \$100. 1956, c. 49, s. 2.
- Tax** **3.**—(1) Every purchaser shall pay to the Treasurer a tax at the rate of 18.5 cents per imperial gallon on all fuel received by him. 1956, c. 49, s. 3 (1); 1958, c. 63, s. 1 (1).
- Idem** (2) Every registrant shall pay to the Treasurer a tax at the rate of 18.5 cents per imperial gallon on all fuel used by him to generate power for the propulsion of a motor vehicle. 1956, c. 49, s. 3 (2); 1958, c. 63, s. 1 (2).
- Time of payment** (3) The tax imposed by subsection 1 shall be paid at the time the fuel is supplied to the purchaser, and the tax imposed by subsection 2 shall be paid in accordance with section 9.
- Penalty** (4) Every person who fails to pay the tax in accordance with this Act shall pay to the Treasurer a penalty equal to the amount of the tax and \$50. 1956, c. 49, s. 3 (3, 4).
- Where products excluded become taxable fuel** (5) Where a person places any product that is excluded from this Act by the regulations in a fuel tank, such product is no longer so excluded and is taxable as fuel under this Act, and the person so doing shall forthwith pay the tax imposed by subsection 1 on such fuel to the Treasurer directly or through any registrant.

(6) Every person who fails to comply with subsection 5 is <sup>Offence</sup> guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$1,000. 1957, c. 74, s. 2 (3).

4.—(1) Where there are more than forty imperial gallons of fuel in the fuel tank, including any supplemental tanks, of a motor vehicle, such fuel shall be deemed to have been purchased in Ontario, and the person in charge of any such motor vehicle shall have in his possession proof that the tax imposed by this Act was paid on the portion of such fuel in excess of forty imperial gallons. <sup>Duty of operator where more than 40 gallons in fuel tank</sup>

(2) Every person who fails to comply with subsection 1 <sup>Offence</sup> is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.

(3) This section does not apply to a public commercial <sup>Exception</sup> vehicle for which there has been issued a Class L single-trip permit under *The Public Commercial Vehicles Act*. 1958, <sup>R.S.O. 1960, c. 319</sup>

5. Every registrant shall inform every purchaser of the <sup>Invoice</sup> price of the fuel and shall, upon request therefor, deliver to him an invoice showing,

- (a) the number of his registration certificate;
- (b) the cost of the fuel to the purchaser; and
- (c) the amount of the tax paid by the purchaser. 1956, c. 49, s. 4.

6. The Treasurer may require any registrant to furnish a <sup>Surety bond</sup> surety bond on such terms and conditions and in such amount as the Treasurer deems appropriate. 1956, c. 49, s. 5.

7.—(1) Subject to subsection 2, every registrant shall, as <sup>Collection</sup> agent of the Treasurer, collect from the purchaser the tax imposed by this Act.

(2) No registrant shall collect the tax imposed by this Act <sup>Exception</sup> on fuel supplied by him to a registrant who is not a purchaser.

(3) For the purpose of collecting the tax, the Treasurer <sup>Arrangements for collection</sup> may enter into such arrangement with a registrant as he deems expedient and he may provide for the payment of such remuneration to the registrant as he deems appropriate.

(4) Every registrant shall be deemed to hold the moneys <sup>Tax to be trust moneys</sup> collected by him under this Act in trust for the Crown in right of Ontario. 1956, c. 49, s. 6 (1-4).



Penalty  
for failure  
to collect  
tax

(5) Every registrant who refuses or neglects to collect the tax in accordance with this Act shall pay to the Treasurer a penalty equal to the amount of the tax that he refused or neglected to collect and \$500.

Penalty for  
failure of  
employee  
to collect  
tax

(6) Every employee of a registrant who permits or authorizes or is a party or privy to supplying fuel to a purchaser without collecting from the purchaser the tax imposed by this Act shall pay to the Treasurer a penalty equal to the amount of the tax and \$50. 1956, c. 49, s. 6 (6, 7).

Returns

8.—(1) Every registrant shall,

(a) on or before the 25th day of each month, without notice or demand; or

(b) on or before the day designated in the demand of the Comptroller served on the registrant by hand or by registered letter,

deliver to the Comptroller such return as he requires for the purpose of carrying out this Act. 1956, c. 49, s. 7 (1); 1957, c. 74, s. 4.

Verification  
of returns

(2) Every return shall be verified by the certificate of the registrant and, if the registrant is not an individual, of its president or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of the registrant and exhibit truly, correctly and completely all information for the period covered by the return.

Penalty for  
default in  
delivering  
return

(3) Every registrant who fails to comply with subsection 1 shall pay to the Treasurer a penalty,

(a) equal to 5 per cent of the tax collectable and of the tax payable by him; or

(b) 1 cent for each gallon of fuel supplied by him and 1 cent for each gallon of fuel received by him during the period for which the return is required,

whichever is the greater, but in no case shall such penalty be more than \$500.

Penalty for  
failure to  
complete  
return

(4) Where a registrant fails to complete the information required in the return to be delivered to the Comptroller under subsection 1, such registrant shall pay to the Treasurer a penalty of \$20. 1956, c. 49, s. 7 (2-4).

Transmission  
of tax

9.—(1) Every registrant shall transmit with the return required by section 8 the amount of the tax payable by him

or payable and collectable by him, as the case may be, as shown therein.

(2) Where a registrant transmits less than the amount of <sup>Deficiency</sup> the tax payable by him or payable and collectable by him, as the case may be, as shown by the return, he shall pay to the Treasurer interest at the rate of 7 per cent per annum upon the deficiency calculated from the date of default until the date of transmission to the Treasurer. 1956, c. 49, s. 8.

**10.**—(1) If the Comptroller, in order for him to make an <sup>Demand for</sup> accounting of the tax collectable by a registrant or of the tax <sup>additional</sup> payable by a registrant under this Act or for any other <sup>information</sup> purpose, desires any information or additional information, or a return from a registrant who has not made a return or a complete or sufficient return, he may, by registered letter, demand from the registrant, or from the president, manager, secretary, or any director, agent or representative thereof, such information, additional information or return, and such registrant, president, manager, secretary, director, agent or representative upon whom the demand is made shall deliver to the Comptroller the information, additional information or return within the time specified in the registered letter.

(2) The Comptroller may, by registered letter, require the <sup>Production</sup> production under oath or otherwise by any registrant, or by <sup>of letters,</sup> the president, manager, secretary, or any director, agent or <sup>accounts,</sup> representative thereof, or by any person, partnership, syndi- <sup>etc.</sup> cate, trust or company holding or paying or liable to pay any portion of the income of such registrant, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents.

(3) If a registrant fails or refuses to keep adequate books <sup>Books and</sup> or accounts for the purpose of ascertaining the amount of the <sup>accounts</sup> tax payable by him or payable and collectable by him, as <sup>to be kept</sup> the case may be, the Comptroller may require such registrant to keep such records and accounts as he specifies.

(4) For every default in complying with subsection 1, 2 <sup>Penalty</sup> or 3, the persons in default, or any of them, shall pay to the Treasurer a penalty of \$25 for each day during which the default continues.

(5) For the purposes of any proceedings taken under this <sup>Compliance</sup> Act, the facts necessary to establish compliance on the part <sup>of Treasurer</sup> of the Treasurer or of the Comptroller with this Act, as well <sup>or Comp-</sup> as the failure of any person to comply with the requirements <sup>troller, etc.,</sup> of this Act, are sufficiently proved in any court by affidavit <sup>to be proved</sup> of the Treasurer or any officer of the Treasury Department. <sup>by affidavit</sup>

Inquiry as to amount of tax collectable or payable

(6) Any officer authorized by the Treasurer may make such inquiry as he deems necessary to ascertain the amount of any tax collectable by a registrant or any tax payable by a registrant under this Act, and for the purposes of such inquiry such officer has all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*.

R.S.O. 1960, c. 323

Treasurer or Comptroller not bound by return

(7) No return or information supplied by or on behalf of a registrant is binding upon the Treasurer or the Comptroller, and notwithstanding any such return or information, or in the absence of any return or information, the Comptroller may determine the amount of the tax collectable by any registrant or of the tax payable by any registrant.

Notice of accounting

(8) After examination of the return of a registrant, the Comptroller shall send a notice of accounting to such registrant verifying or altering the amount of tax shown to be collectable by the registrant or to be payable by the registrant in his return, and any additional tax found to be collectable or payable, as the case may be, over the amount shown in the return shall be transmitted within one month from the date of mailing of the notice of accounting and, subject to section 9, such additional tax shall bear interest at the rate of 4 per cent per annum calculated from the last date prescribed for making the return to the date of transmission to the Treasurer.

Penalty

(9) If a registrant fails to transmit the additional tax and interest within one month after the date of the mailing of the notice of accounting, he shall pay to the Treasurer, in addition to the interest provided by subsection 8, interest at the rate of 3 per cent per annum upon the additional tax from the expiry of the period of one month after the date of the mailing of the notice of accounting to the date of transmission to the Treasurer. 1956, c. 49, s. 9.

Time for making return

**11.** The Treasurer may enlarge the time for making any return before or after the time for making it. 1956, c. 49, s. 10.

Declarations and affidavits

**12.** Declarations and affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge a fee therefor. 1956, c. 49, s. 11.

False statements

**13.** Every person who makes a false statement in any return or in any information made or furnished to the Treasurer or Comptroller under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for not more than six months, or both. 1956, c. 49, s. 12.



**14.** Notwithstanding any prior accounting or where no accounting has been made, the registrant continues to be liable for any tax that is collectable by him and for any tax that is payable by him and that has not been transmitted to the Treasurer. 1956, c. 49, s. 13.

**15.** The penalties imposed by this Act are payable upon and in accordance with the demand of the Treasurer therefor. 1956, c. 49, s. 14.

**16.**—(1) Upon default of transmission by a registrant of any tax collectable by him or of any tax or penalty payable by him under this Act,

- (a) the Treasurer may bring an action for recovery thereof in any court of competent jurisdiction and every such action shall be brought and executed in and by the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury; or
- (b) the Treasurer may issue a warrant and direct it to the sheriff of any county or district in which any property of the registrant is located or situate, for the amount of the tax, interest and penalty, or any of them owing by the registrant, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court; or
- (c) the Treasurer or any officer authorized by him may enter upon the premises of the registrant or any other place in Ontario where the books or records of the registrant or any part of them are kept and make such investigation and examination as he deems necessary, and may seize any of the books and records and may, by notice in writing, require that any person who may be indebted to the registrant shall pay the debt to the Treasurer.

(2) A notice under clause c of subsection 1 may be served personally or by registered letter addressed to such person at the address indicated in the books or records of the registrant and the receipt of payment of the amount of the indebtedness by the Treasurer constitutes a good and sufficient discharge of the liability of such person to the registrant to the extent of the amount indicated in the receipt.

Liability  
of debtor

(3) Any person discharging any liability to a registrant owing taxes collectable by him or owing taxes or penalties payable by him under this Act after the service of the notice referred to in subsection 2 is personally liable to the Treasurer to the extent of the amount of the liability discharged between the person and the registrant or to the extent of the amount of taxes collectable by the registrant and of taxes, interest and penalties payable by him, whichever is the lesser amount, and the Treasurer has the same remedies for the recovery of such amount from such person as he has for the recovery from the registrant of a tax collectable by him or of a tax or penalty payable by him under this Act. 1956, c. 49, s. 15.

Priority  
of tax

**17.** Every tax collectable and every tax and penalty payable by a registrant under this Act is a first lien and charge upon his property in Ontario. 1956, c. 49, s. 16.

## Refunds

**18.—(1)** The Treasurer may refund a tax imposed under this Act where the fuel on which the tax was paid was used for a purpose other than to generate power for the propulsion of a motor vehicle.

## Idem

(2) A refund under subsection 1 shall not be made unless an application therefor, accompanied by properly receipted invoices, is forwarded to the Treasurer within six months from the date of payment of the invoices and unless the application and all material furnished therewith are true in every respect.

Refunds  
of over-  
payments

(3) The Treasurer may refund before or after the issue of the notice of accounting any amount that the registrant has transmitted in excess of the taxes collectable by him and of the taxes, interest and penalties payable by him, if application in writing is made therefor by the registrant within six months of the date of transmission of the tax or the date on which the notice of accounting was issued. 1956, c. 49, s. 17.

## Secrecy

**19.—(1)** No person employed in the public service of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act.

## Offence

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1956, c. 49, s. 18.

Remedies  
for recovery  
of tax and  
penalties

**20.** The use of a remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both,

of any tax or penalty, or both, imposed by this Act are in addition to other remedies existing by law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. 1956, c. 49, s. 19.

**21.** The Lieutenant Governor in Council may make regulations,

- (a) excluding products from this Act;
  - (b) exempting any class of persons from the payment of the tax imposed under this Act;
  - (c) refunding any tax or any portion thereof paid under this Act to any purchaser or class of purchasers and prescribing the records and material to be furnished upon application for a refund;
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1956, c. 49, s. 20; 1957, c. 74, s. 5.
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## CHAPTER 249

**The Municipal Act****1. In this Act,**Interpre-  
tation

- (a) "arbitration" means an arbitration under this Act;
- (b) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over or across which a highway passes;
- (c) "city", "town", "village", "township" and "county" respectively mean a city, town, village, township or county, the inhabitants of which are a body corporate within the meaning and for the purposes of this Act; R.S.O. 1950, c. 243, s. 1, cls. (*a-c*).
- (d) "debt" includes obligation for the payment of money; 1959, c. 62, s. 1, *part*.
- (e) "Department" means the Department of Municipal Affairs;
- (f) "electors", when applied to a municipal election, means the persons entitled to vote at a municipal election; when applied to voting on a money by-law, means the persons entitled to vote on the by-law; and when applied to voting on any other by-law or on a resolution or question, unless otherwise provided by the Act, by-law or other authority under which the vote is taken, means municipal electors;
- (g) "highway" means a common and public highway, and includes a street and a bridge forming part of a highway or on, over or across which a highway passes;
- (h) "land" includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water;
- (i) "local municipality" means a city, town, village and township;
- (j) "member", referring to a member of a council, includes the head of the council and a member of a board of control; R.S.O. 1950, c. 243, s. 1, cls. (*d-i*).

- (*k*) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money other than a by-law passed under section 329; R.S.O. 1950, c. 243, s. 1, cl. (*j*); 1952, c. 63, s. 1.
- (*l*) "Municipal Board" means the Ontario Municipal Board;
- (*m*) "municipal electors" means the persons entitled to vote at a municipal election;
- (*n*) "municipality" means a locality the inhabitants of which are incorporated;
- (*o*) "population" means the population as determined by the last preceding census taken under the authority of the Parliament of Canada, or under a by-law of the council, or by the last preceding municipal enumeration by the assessor whichever is the latest, or by such means as the Municipal Board may direct;
- (*p*) "prescribed" means prescribed by or under the authority of this Act;
- (*q*) "published" means published in a newspaper in the municipality to which what is published relates, or which it affects, or, if there is no newspaper published in the municipality, in a newspaper published in an adjacent or neighbouring municipality; and "publication" has a corresponding meaning;
- (*r*) "separated town" means a town separated for municipal purposes from the county in which it is situate; R.S.O. 1950, c. 243, s. 1, cls. (*k-q*).
- (*s*) "sewage" includes drainage, storm water, commercial wastes and industrial wastes; 1959, c. 62, s. 1, *part*.
- (*t*) "Supreme Court" means the Supreme Court of Ontario;
- (*u*) "township" includes a union of townships and a municipality composed of two or more townships;
- (*v*) "two-thirds vote" means the affirmative vote of two-thirds of the members of a council present at a meeting thereof;
- (*w*) "unorganized territory" means that part of Ontario without county organization;
- (*x*) "urban municipality" means a city, town and village. R.S.O. 1950, c. 243, s. 1, cls. (*r-v*).



2.—(1) Where under this Act evidence is taken orally before a special examiner or a judge, he may direct that the evidence be taken in shorthand by a stenographic reporter. Evidence may be taken in shorthand

(2) The fees of the stenographic reporter including those for the transcribing of his notes shall be paid by the party on whose behalf the evidence is taken, and shall form part of the costs of the proceedings in which the evidence is taken. R.S.O. 1950, c. 243, s. 2. Fees of reporter, how paid

3. Where registration in a registry office is prescribed or provided for by this Act, it means, where *The Land Titles Act* is applicable, registration in the office of the master or local master of titles of the locality in which the land is situated. R.S.O. 1950, c. 243, s. 3. Registration in office of land titles R.S.O. 1960, c. 204

4. A person in the actual occupation of land, When occupant deemed to be owner
- (a) under an agreement with the owner for the purchase of it; or
  - (b) sold by the Director in accordance with the *Veterans' Land Act* (Canada), R.S.C. 1952, c. 280

shall be deemed to be the owner, and the unpaid purchase money or balance, as the case may be, shall be deemed to be an encumbrance on the land. 1953, c. 70, s. 1.

5. Where power to acquire land is conferred upon a municipal corporation by this or any other Act, unless otherwise expressly provided, it includes the power to acquire by purchase or otherwise and to enter on and expropriate. R.S.O. 1950, c. 243, s. 5. Power to acquire includes expropriation

6. Except where otherwise expressly provided, this Act does not affect the provisions of any special Act relating to a particular municipality. R.S.O. 1950, c. 243, s. 6. Special Acts not affected

7. The inhabitants of every county, city, town, village and township are a body corporate for the purposes of this Act. R.S.O. 1950, c. 243, s. 7. Inhabitants of municipalities to be bodies corporate

8. The name of the body corporate is "*The Corporation of the County [United Counties, City, Town, Village, Township (as the case may be)] of.....*" Names of municipal corporations  
(naming the municipality)". R.S.O. 1950, c. 243, s. 8.

9. The powers of a municipal corporation shall be exercised by its council. R.S.O. 1950, c. 243, s. 9. Council to exercise corporate powers

## PART 1

FORMATION, ERECTION, ALTERATION OF  
BOUNDARIES, AND DISSOLUTION OF  
MUNICIPALITIES, ETC.

## INCORPORATIONS AND ERECTIONS

- Interpretation**      **10.**—(1) In this section, “inhabitant” means a permanent resident or a temporary resident having a permanent dwelling within the locality. 1959, c. 62, s. 2.
- Improvement districts**      (2) The Municipal Board, upon the application of the Department or of not less than thirty inhabitants of a locality having a population of not less than fifty, may incorporate the inhabitants of the locality or a larger or smaller locality as an improvement district.
- Townships**      (3) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 1,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a township or union of townships.
- Villages**      (4) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 500, may incorporate the inhabitants of the locality or a larger or smaller locality as a village.
- Idem**      (5) The Municipal Board, upon the application of the trustees of a police village, may incorporate the inhabitants of the locality comprising the police village as a village.
- Towns**      (6) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 2,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a town.
- Locality interpreted**      (7) An application may be made under subsection 2, 3, 4 or 6 with respect to a locality that includes, but is not composed of, a police village or part thereof, but no such application may be made with respect to a locality that includes an urban municipality or any part thereof.
- Qualifications of applicants**      (8) No person is qualified to be an applicant under this section unless he is a British subject of the full age of twenty-one years.
- Public hearing**      (9) The Municipal Board, before making an order under this section, shall hold a public hearing in or adjacent to the locality affected, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the

merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. 1954, c. 56, s. 1, *part*.

**11.—(1)** Upon the application of an improvement district having a population of not less than 500, the Municipal Board may erect the improvement district into a village. Erection of improvement district, as village

(2) Upon the application of an improvement district having a population of not less than 1,000, the Municipal Board may erect the improvement district into a township. as township

(3) Upon the application of an improvement district having a population of not less than 2,000, the Municipal Board may erect the improvement district into a town. as town

(4) Upon the application of a village having a population of not less than 2,000, the Municipal Board may erect the village into a town. Erection of village into town

- (5) Upon the application, Erection of village, town or township into city
- (a) of a village or town having a population of not less than 15,000; or
  - (b) of a township having a population of not less than 25,000,

the Municipal Board may erect the village, town or township into a city.

(6) An application by an improvement district, village, town or township under this section shall be authorized by by-law of the board of trustees of the improvement district or the council of the village, town or township, as the case may be, and notice of the application shall be published in such manner as the Municipal Board may direct. Application to be authorized by by-law

(7) An application for the erection of a city or town under this section may include an application for the annexation of any locality adjoining the applicant municipality and, where the Municipal Board deems it desirable that the adjoining locality, or any greater or smaller area, be included in the city or town, the Municipal Board may annex the locality or any greater or smaller area to the city or town in the order erecting it and, where the locality to be annexed forms part of another municipality or municipalities, detach it therefrom. Enlargement of area of city or town to be erected

(8) Where it is proposed that an adjoining locality be annexed to the city or town to be erected, the application for the erection shall so state and shall designate the locality to be annexed, and the provisions of section 14 shall apply with respect to the part of the application, and the order thereon, dealing with the proposed annexation. Idem



No allow-  
ance for  
court house  
or jail

(9) Where a village, town or township is erected into a city, the city is not entitled in the adjustment of assets and liabilities to any allowance in respect of its interest in the court house or jail of the county. 1954, c. 56, s. 1, *part*.

Name,  
boundaries,  
etc.

**12.**—(1) Where a municipality is incorporated or erected, the order of the Municipal Board shall direct the name that the municipality shall bear, its boundaries, and the date when the incorporation or erection shall take effect, and may provide for any matters that the Board may deem necessary for the establishment and carrying on of the municipality.

County

(2) Where an improvement district, village, town or township is incorporated out of parts of two or more counties, it shall be annexed to and form part of that one of the counties which the Municipal Board directs. 1954, c. 56, s. 1, *part*.

Additional  
powers of  
Board

(3) Without restricting the generality of subsection 1, the Municipal Board, by any order made upon an application for incorporation or erection or by any subsequent order or orders, may exercise all the powers conferred on it in the case of an amalgamation or annexation by subsections 7, 10, 12 and 14 of section 14, the provisions of which subsections apply *mutatis mutandis*. 1954, c. 56, s. 1, *part*; 1955, c. 48, s. 1; 1956, c. 50, s. 1.

Order of  
Board  
conclusive

(4) The order of the Municipal Board incorporating or erecting a local municipality is conclusive evidence that all conditions precedent to the making of the order have been complied with and that the local municipality has been duly incorporated or erected in accordance with this Act. 1954, c. 56, s. 1, *part*.

#### WARDS

Wards

**13.**—(1) Where a municipality is incorporated or erected, the Municipal Board shall divide a city and may divide any other municipality into not less than three wards each having a population of not less than 500, and shall designate the name or number each ward shall bear. 1954, c. 56, s. 1, *part*; 1958, c. 64, s. 1.

Idem

(2) Upon the application of the council of a local municipality for the division or a new division of the municipality into wards, the Municipal Board, notwithstanding any general or special Act, may divide or redivide the municipality into wards in the manner provided in subsection 1 and shall declare the date when the division or redivision shall take effect. 1954, c. 56, s. 1, *part*.

Idem

(3) Where a municipality is divided or redivided into wards under this section, the Municipal Board, notwithstanding any

general or special Act, may make all such provisions for the composition of any local board as defined in *The Department of Municipal Affairs Act* and for the number of members to be elected to any such local board from each ward as the Municipal Board may deem necessary. 1955, c. 48, s. 2.

R.S.O. 1960,  
c. 98

#### ALTERATION OF BOUNDARIES

**14.—(1)** In this section, “local board” means a local board as defined in *The Department of Municipal Affairs Act*.

Interpre-  
tation

(2) Upon the application of any municipality authorized by by-law of the council thereof or upon the application of the Minister of Municipal Affairs authorized by the Lieutenant Governor in Council, or in respect of clause *d* upon the application of at least twenty-five inhabitants, being British subjects of the full age of twenty-one years, the Municipal Board may by order on such terms as it may deem expedient,

Amalgama-  
tions and  
annexations

(a) amalgamate the municipality with any other municipality or municipalities;

(b) annex the whole or any part or parts of the municipality to any other municipality or municipalities;

(c) annex the whole or any part or parts of any other municipality or municipalities to the municipality;  
or

(d) annex any locality that does not form part of any municipality to the municipality,

and any such order may amalgamate or annex a greater or smaller area or areas than the area or areas specified in the application, whether or not the municipality, municipalities, or locality not forming part of a municipality, in which the area or areas is or are located, is or are specified in the application.

(3) The Municipal Board, before proceeding with the application of the council of any municipality under subsection 2, may require that the by-law of the council shall receive the assent of the electors of such municipality who are entitled to vote on money by-laws.

Assent of  
electors

(4) The Municipal Board, before making any order under subsection 2, shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Public  
hearing to  
be held  
by Board

Effect of  
official  
plan  
R.S.O. 1960,  
c. 296

(5) Where in a municipality affected by a proposed annexation or amalgamation an official plan approved under *The Planning Act* or a predecessor thereof is in effect and a by-law of a municipality is passed to authorize an application for an order of the Municipal Board under this section, and a certified copy of the by-law has been sent to the Minister of Planning and Development before the 1st day of April, 1960, or to the Minister of Municipal Affairs on or after that date and to the planning board or planning boards having jurisdiction in any municipality or area affected by the application, the by-law shall not be deemed to be or be held invalid on the ground that it conflicts with the official plan.

City or  
town may  
be erected

(6) If a municipality to which the whole or part of another municipality is annexed or a municipality created by an amalgamation under this section has the requisite population, it may by such order be erected by the Municipal Board into a city or town bearing such name as the Board may direct.

Division  
into  
wards

(7) The Municipal Board may order a division or re-division of a municipality into wards if, in the opinion of the Board, the annexation or amalgamation renders such division or redivision necessary or desirable. 1954, c. 56, s. 1, *part*.

By-law  
to be  
submitted  
on petition

(8) If a petition signed by at least 150 electors of a town, village or township, or 500 electors of a city, praying that the whole or any part of the city, town, village or township may be annexed to an adjacent municipality on such terms as may be stated in the petition, is presented to the council of the city, town, village or township, the council shall, within four weeks after the presentation of the petition or within such longer period as the Municipal Board may fix, submit to the electors of the city, town, village or township for their assent thereto a by-law providing for such annexation on the terms mentioned in the petition, and if the by-law receives the assent of the electors the council shall forthwith make application for such annexation under subsection 2. 1954, c. 56, s. 1, *part*; 1958, c. 64, s. 2.

Interpre-  
tation

(9) In subsection 8, "electors" means electors who are entitled to vote on money by-laws.

Further  
powers of  
Municipal  
Board

(10) The Municipal Board may, by any order made pursuant to an application under this section or by subsequent order or orders,

- (a) make all such adjustments of assets and liabilities as between the municipalities, including counties, affected by any such order as may be agreed upon or, in default of agreement, as the Board may deem equitable;



- (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Board may deem equitable;
- (c) define special areas within the municipality as enlarged by such annexation or resulting from such amalgamation, having regard to the areas annexed thereto or amalgamated therein, and adjust the rights, claims, liabilities and obligations of the rate-payers of such areas and provide the extent to which the liabilities of such municipality shall be discharged by the imposition of rates upon the rateable property in such areas;
- (d) appoint one or more referees, who shall have all the powers mentioned in section 52 of *The Ontario Municipal Board Act*, to inquire into and report to the Board upon the adjustments of assets and liabilities and of rights, claims, liabilities and obligations referred to in clauses *a*, *b* and *c*, or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer it back to the referee or referees for further consideration, and the order of the Board adopting the report or varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby; R.S.O. 1960,  
c. 274
- (e) fix the remuneration and expenses of the referee or referees and declare by whom and in what manner the remuneration and expenses shall be paid;
- (f) subject to section 20, require the transfer of real property from either municipality or a local board thereof to the other municipality or a local board thereof, and take any such transfer into consideration in the adjustment of assets and liabilities;
- (g) make all such provisions for the composition of councils and local boards, the fixing of days for nominations, either before or subsequent to the day on which the annexation or amalgamation becomes effective, the appointment of returning officers, the holding of elections, the qualifications of candidates and electors, the preparation of first voters' lists and assessment rolls, the fixing of days for first meetings of councils and local boards, and for such other matters as it may deem necessary to provide

for the effective administration of the enlarged or amalgamated municipality or of any local board thereof;

R.S.O. 1960,  
c. 337

- (h) where the holder of an operating licence under *The Public Vehicles Act* is adversely affected by the annexation or amalgamation,
  - (i) authorize the municipality or municipalities to pay to the holder of the licence in respect of such adverse effect the amount of compensation agreed upon, or
  - (ii) direct what compensation, if any, shall be paid by the municipality or municipalities to the holder of the licence in respect of such adverse effect; 1954, c. 56, s. 1, *part*.
- (i) where by reason of any annexation order made under this section the taxable assessment of a local municipality is reduced by not less than 15 per cent as shown by the last revised assessment roll prior to the effective date of such annexation, authorize and direct the payment to such municipality by the annexing municipality, to relieve such municipality from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation in such amounts and manner as may be agreed upon between the municipalities and approved by the Board or, failing agreement, as the Board may deem equitable;
- (j) where by reason of any annexation or amalgamation order made under this section a county will be deprived of not less than 15 per cent of its equalized assessment, authorize and direct the payment to such county by the annexing or amalgamated municipality, to relieve such county from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation or amalgamation in such amounts and manner as may be agreed upon between the county and the annexing or amalgamated municipality and approved by the Board or, failing agreement, as the Board may deem equitable;
- (k) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the amalgamation or annexation provided for in such order; 1954, c. 57, s. 1 (1).

- (l) after a public hearing, if the Board is of the opinion that the last revised assessment of an annexed area or any portion thereof is on a higher basis than the last revised assessment of the annexing municipality and is therefore not equitable therewith, direct what percentage of the rates for all purposes to be levied for taxation in the annexing municipality shall be levied in the annexed area or any portion thereof, provided that an order under this clause may be made only in respect of the rates to be levied in either the first or the first and second annual levies after the date of the annexation. 1955, c. 48, s. 3.

(11) Where compensating grants are to be determined by the Municipal Board under clause *i* or *j* of subsection 10, the determination shall not be made until after one complete fiscal year of the municipalities has elapsed following the date of the annexation or amalgamation. 1957, c. 76, s. 1 (1).

Determination of compensating grants by Board

(12) The Municipal Board may make such rules and regulations and issue such orders and directions in respect of any matter not specifically provided for in this section as it may deem necessary or desirable in connection with any such annexation or amalgamation and every such rule, regulation, order and direction is valid and binding upon all municipalities and local boards interested in or affected thereby.

Municipal Board may make rules, etc.

(13) No order of annexation or amalgamation of any municipality or any part thereof shall be made under this section at a time when the municipality is in default in payment of any interest or principal in respect of its debentures.

No order if municipality in default

(14) The powers conferred upon the Municipal Board by this section may be exercised at any time or times notwithstanding any other provision in this Act or any other special or general Act and, in the event of any conflict between the provisions of this section and the other provisions of this Act or any other special or general Act, the provisions of this section prevail. 1954, c. 56, s. 1, *part*.

Provisions of this section to prevail

(15) Section 94 of *The Ontario Municipal Board Act* does not apply to a decision of the Municipal Board providing for an annexation or amalgamation and such decision,

Decision granting annexation or amalgamation  
R.S.O. 1960, c.274

- (a) shall be in writing;
- (b) shall identify the area to be annexed or amalgamated; and
- (c) shall fix the date when the annexation or amalgamation shall be effective,

and a copy of the decision shall be sent by the secretary of the Board by registered mail to the clerk of every municipality,



including every county, affected by the decision, and to such other persons as the Board may direct.

Notice of  
objection

(16) No order shall be made under subsection 2 until the expiration of twenty-eight days after the mailing of the copies of the decision under subsection 15 and, within such period of twenty-eight days, notice of objection to the decision may be filed with the Clerk of the Executive Council.

Idem

(17) For the purposes of subsection 16, the notice of objection means an objection in writing, giving reasons therefor, that, according to the certificate of the clerk of the municipality, is signed by not less than 10 per cent of the persons qualified to vote on money by-laws who are resident in,

- (a) the municipality that has applied for the order; or
- (b) the area that by the decision is to be annexed to or amalgamated with the applicant municipality,

and includes, where there are no persons qualified to vote on money by-laws who are resident in the area to be annexed, an objection in writing, giving reasons therefor, authorized by by-law of the council of the municipality in which such area is situated. 1954, c. 57, s. 1 (2), *part*.

Withdrawal  
of objection

(18) An objection filed under subsection 16 may be withdrawn by the filing with the Clerk of the Executive Council, at any time before the Lieutenant Governor in Council has made an order under subsection 19, of a notice in writing of such withdrawal signed by one-third or more of the objectors provided that the then remaining objectors constitute not more than 10 per cent of the persons who were entitled to sign the objection under subsection 17, or, where the objection was authorized by the council of a municipality, of a certified copy of a by-law repealing the authorizing by-law. 1954, c. 57, s. 1 (2), *part*; 1957, c. 76, s. 1 (2).

Powers of  
Lieutenant  
Governor in  
Council

(19) Where an objection is filed in accordance with subsections 16 and 17 and is not withdrawn, the Lieutenant Governor in Council may by order,

- (a) confirm the decision of the Municipal Board; or
- (b) require the Municipal Board to hold a new public hearing of the annexation or amalgamation application before such members of the Board as the Lieutenant Governor in Council may designate.

Finality  
of decision

(20) The decision of the Municipal Board,

- (a) where no objection is filed in accordance with subsections 16 and 17 or where the objections thereto are withdrawn in accordance with subsection 18; or

(b) when confirmed by the Lieutenant Governor in Council; or

(c) after a new public hearing ordered by the Lieutenant Governor in Council,

is final and not open to appeal, and the Board may thereupon make an order under subsection 2.

(21) Nothing in this section affects the application of section 95 of *The Ontario Municipal Board Act*. Application of R.S.O. 1960, c. 274, s. 95

(22) Where part of a local municipality becomes part of a local municipality in another county, it thereafter forms part of that county except for the purpose of representation in the Assembly. 1954, c. 57, s. 1 (2), *part*. Adding territory to municipality in another county

**15.**—(1) Upon the application of a municipality to alter, enlarge, reduce or dissolve any fire, police, sewage, water or transportation area or local improvement area or street lighting area created under this or any other Act or any other area created for any municipal purpose, or to amalgamate any such area with any other area of a similar nature in the municipality or to divide any such area or areas into new areas, the Municipal Board may, on such terms as it deems expedient, by order make such alteration, enlargement, reduction, division, dissolution or amalgamation. 1957, c. 76, s. 2. Alteration of areas

(2) Unless under all the circumstances affecting the matter the Municipal Board deems unnecessary and by order dispenses with a public hearing, the Board shall, before making an order under this section, hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. 1954, c. 56, s. 1, *part*. Public hearing

(3) The provisions of section 14, except subsections 4 and 15 to 21, apply *mutatis mutandis* to an application under this section. 1954, c. 56, s. 1, *part*; 1954, c. 57, s. 2. Application of s. 14

**16.**—(1) A union of townships shall consist of two or more townships united for municipal purposes and having in common, as if one township, all offices and institutions established by law pertaining to township municipalities. Union of townships

(2) The Lieutenant Governor in Council may, by proclamation, annex a township, or two or more townships lying adjacent to one another laid out by the Crown in unorganized territory, to any adjacent county, and may erect the same with another township in the county into a union of townships. Annexation of townships in unorganized territory to county

Separation  
of township  
from union

(3) Upon the application of a union of townships, authorized by by-law of the council thereof, or upon the application of at least seventy-five inhabitants of one of the townships included in a union of townships, the Municipal Board may by order on such terms as it may deem expedient separate the township in respect of which the application is made from the union of townships and,

(a) incorporate the inhabitants of the separated township as a new township; or

(b) erect the township with an adjoining township into a union of townships.

Names,  
boundaries,  
etc.

(4) Where a township is separated from a union of townships, the order of the Municipal Board shall direct the name that the remainder of the union shall bear, the name that the new township or union shall bear, the boundaries of the municipalities, and the date when the order shall take effect, and may provide for any matters that the Board deems necessary for the establishment and carrying on of the municipalities. 1954, c. 56, s. 1, *part*.

Application  
of s. 14

(5) The provisions of section 14, except subsections 15 to 21, apply *mutatis mutandis* to an application under subsection 3. 1954, c. 56, s. 1, *part*; 1954, c. 57, s. 3.

#### MATTERS CONSEQUENT ON INCORPORATIONS, ERECTIONS, ALTERATIONS OF BOUNDARIES, ETC.

By-laws to  
remain in  
force on  
incorpora-  
tions, etc.

**17.—**(1) The incorporation of a locality as an improvement district, township, village or town, or the erection of an improvement district into a village, township or town, or the erection of a village into a town, or the erection of a village, town or township into a city, or the separation of a township from a union of townships, does not affect the by-laws then in force in the locality or municipality, and they remain in force in the locality or municipality until repealed by the council of the newly incorporated or erected municipality.

Idem

(2) The amalgamation of two or more municipalities does not affect the by-laws then in force in each of the former municipalities and they remain in force in each former municipality until repealed by the council of the new municipality.

Proviso

(3) Nothing in this section authorizes the amendment or repeal of a by-law that the council by which it was passed could not lawfully amend or repeal. 1954, c. 56, s. 1, *part*.

By-laws in  
force in  
annexed  
territory

**18.** Except where otherwise ordered by the Municipal Board, where a locality or a municipality is annexed to a municipality, the by-laws of the latter municipality extend



to the locality or annexed municipality and the by-laws then in force in the locality or annexed municipality cease to apply to it, except by-laws relating to highways, by-laws designating areas of subdivision control and by-laws passed under section 30 of *The Planning Act* or a predecessor of such section or which are kept in force by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, which shall remain in force until repealed by the council of the annexing municipality, and except by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council that passed them. 1954, c. 56, s. 1, *part*.

R.S.O. 1960,  
c. 296  
1941, c. 35

**19.—(1) Where,**

- (a) the whole of a municipality is annexed to another municipality;
- (b) two or more municipalities are amalgamated;
- (c) an improvement district is erected into a village, township or town;
- (d) a village is erected into a town;
- (e) a village, town or township is erected into a city,

Assets, etc.,  
on  
annexations,  
amalgama-  
tions  
erections

all the assets and liabilities of the annexed or former municipality or municipalities and its or their local boards are assets and liabilities of the annexing or new municipality and its local boards, and the annexing or new municipality for all purposes stands in the place and stead of the annexed or former municipality or municipalities.

(2) Without limiting the generality of subsection 1, the annexing or new municipality has the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the annexed or former municipality or municipalities, including those for the year in which the annexation, amalgamation or erection takes place, as if such taxes had been imposed by the annexing or new municipality. 1954, c. 56, s. 1, *part*.

Idem

**20.—(1) Unless otherwise ordered by the Municipal Board,** where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the real property belonging to the municipality from which the locality becomes or is detached and situated in the locality belongs to and is vested in the newly incorporated municipality or the annexing municipality, as the case may be, except a town hall and the land

Disposition  
of real  
property,  
on incor-  
porations  
and  
annexations

on which it is erected or which is used or enjoyed in connection with it, which shall remain the property of the municipality from which the locality becomes or is detached.

on  
separation  
from union  
of  
townships

(2) Unless otherwise ordered by the Municipal Board, where a township is separated from a union of townships, the real property belonging to the union of townships and situated in the separated township belongs to and is vested in the separated township and the remainder of the real property is the property of the remainder of the union. 1954, c. 56, s. 1, *part*.

Unpaid  
taxes

**21.**—(1) Except where otherwise provided by the Municipal Board, where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the taxes that were imposed by the municipality from which the locality becomes or is detached before the incorporation or annexation takes effect and are unpaid at the time the incorporation or annexation takes effect belong to the newly incorporated municipality or the annexing municipality, as the case may be, and may be collected and recovered by it as if they had been imposed by it.

Idem

(2) The unpaid taxes, the right to collect and recover which is transferred to the newly incorporated municipality or the annexing municipality under subsection 1, shall be taken into consideration upon the adjustment of assets and liabilities consequent upon the incorporation or annexation. 1954, c. 56, s. 1, *part*.

Jurisdiction  
of old  
council on  
incorpora-  
tions, etc.

**22.**—(1) Where,

- (a) a locality is incorporated as an improvement district, township, village or town;
- (b) an improvement district is erected into a village, township or town;
- (c) a village is erected into a town;
- (d) a village, town or township is erected into a city; or
- (e) a township is separated from a union of townships,

and the council of the new municipality is not organized until after the time of the incorporation, erection or separation, the council having authority in the locality, municipality or separated township at the time of the incorporation, erection or separation shall, until the council of the new municipality is organized, continue to have the same powers as before the incorporation, erection or separation.

(2) Where two or more municipalities are amalgamated <sup>Idem</sup> and the council of the new municipality is not organized until after the time of the amalgamation, the council of each former municipality shall, until the council of the new municipality is organized, continue to have the same powers with respect to its municipality as before the amalgamation. 1954, c. 56, s. 1, *part*.

**23.**—(1) Where a work or service coming within the provisions of *The Municipal Drainage Act* or of *The Local Improvement Act* has been undertaken by a municipality and, after it has become liable for the carrying out of the same, any land liable to be specially assessed becomes a new municipality or is annexed to another municipality, the municipality from which the land becomes or is detached may complete the work or service, and may enter upon and acquire any land lying within the new or annexing municipality necessary for the completion of such work or service, and may take all such proceedings, pass all such by-laws, make all such special and other assessments, impose all such special and other rates, issue and sell all such debentures, borrow all such money and do all such other acts and things as are necessary to complete the work or service and to provide for the cost thereof in the same manner as if the land so liable had not become a new municipality or been annexed to another municipality.

Power to proceed with local improvements upon land annexed to another municipality  
R.S.O. 1960, cc. 252, 223

(2) The municipality by which the work or service was undertaken shall be indemnified by the new municipality or the annexing municipality against all debts and liabilities incurred by it before the formation of the new municipality or the annexation for or in respect of any such work or service to the extent to which the land lying within such new or annexing municipality was specially assessed, and in adjusting the assets and liabilities consequent on the detachment of such land the debts incurred by the municipality from which it was detached, for its share of the cost of such work or service, shall be taken into account.

Municipality to which territory annexed to indemnify municipality undertaking work

(3) Where the land specially assessed lies wholly within the new or annexing municipality, the latter is liable for the entire debt in respect of such work or service, and the clerk of the municipality from which the land was detached shall furnish the clerk of the new or annexing municipality with certified copies of all the by-laws relating to the work or service and the rates imposed by such by-laws shall be collected by the new or annexing municipality, and the latter shall pay the principal and interest of the debentures issued in respect of the work or service as they become due and shall indemnify the municipality from which the land was detached against the same.

Assumption of debt where all of land specially assessed is detached



Collection of special rates, etc., where only part of land specially assessed is detached

(4) Where only part of the land specially assessed lies within the new or annexing municipality, the clerk of the municipality from which it was detached shall furnish the clerk of the new or annexing municipality with a certified copy of the by-law imposing the special assessment, and the new or annexing municipality, in each year in which a special rate upon such lands is payable, shall collect the same and shall pay over the sums collected to the treasurer of the municipality from which such land was detached, when and as the same are collected, and in the adjustment of the assets and liabilities consequent upon the detachment of such land the debts incurred by the municipality from which it was detached for its share of the cost of the work or service shall be taken into account. 1954, c. 56, s. 1, *part*.

#### INTER-URBAN AREAS

Power to create inter-urban administrative areas  
R.S.O. 1960, cc. 98, 164

**24.**—(1) Upon the application of a municipality as defined in *The Department of Municipal Affairs Act* for the creation of an area consisting of the applicant municipality or a part thereof and one or more other municipalities or parts thereof for the joint administration therein of education, fire protection, police protection, highways, sewers, sewage disposal, garbage disposal, public health including hospitals and hospitalization, welfare including assistance under *The General Welfare Assistance Act*, parks or any public utility as defined by *The Department of Municipal Affairs Act*, the Municipal Board may by order on such terms as it deems expedient create such area or a greater or smaller area for any or all of such purposes. 1954, c. 56, s. 1, *part*; 1960, c. 69, s. 1.

Vote of electors

(2) Before proceeding with the application, the Municipal Board may require the matter to be voted upon by the electors entitled to vote on money by-laws in the area or any part thereof.

Public hearing to be held

(3) Before making an order under subsection 1, the Municipal Board shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Petition

(4) If a petition signed by at least 150 electors entitled to vote on money by-laws of any municipality other than a city or 500 such electors of a city praying that an application under subsection 1 be made is presented to the council, the council shall within six weeks after the presentation of the petition or, subject to the approval of the Municipal Board, at the next election submit to the electors entitled to vote on money by-laws for their assent thereto a by-law or question setting out

the nature of the application prayed for, and if such by-law or question receives the assent of such electors the council shall forthwith make such application to the Board.

(5) The Lieutenant Governor in Council may authorize the Minister of Municipal Affairs to make an application under subsection 1 and in such case the Municipal Board has the same powers as if the application had been made by a municipality under subsection 1. Minister of  
Municipal  
Affairs  
may apply

(6) The Municipal Board may by order made pursuant to an application under this section or by subsequent order or orders, Powers of  
Municipal  
Board

- (a) make all such adjustments of assets and liabilities as between the municipalities affected by any such order as may be agreed upon or, in default of agreement, as the Board may deem equitable;
- (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Board may deem equitable;
- (c) define special areas within the area created under this section and adjust the rights, claims, liabilities and obligations of the ratepayers of such areas and provide the extent to which liabilities shall be discharged by the imposition of rates upon the rateable property in such areas;
- (d) appoint one or more referees, who shall have all the powers mentioned in section 52 of *The Ontario Municipal Board Act*, to inquire into and report to the Board upon the adjustment of assets and liabilities and of the rights, claims, liabilities and obligations referred to in clauses *a*, *b* and *c*, or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer the report back to the referee or referees for further consideration, and the order of the Board adopting, varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby; R.S.O. 1960,  
c. 274
- (e) fix the remuneration and expenses of the referee or referees and declare in what proportion the remuneration and expenses shall be paid by the municipalities;

(f) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the order.

Wards

(7) The Municipal Board shall order a division or re-division of the area into not less than three wards having regard to population and size, provided that no ward shall extend beyond the boundaries of the municipality in which it is situated unless it is agreed to the contrary by the municipalities in the area.

Acting  
secretary

(8) The clerk of the municipality having the largest assessment shall act as secretary and returning officer of the area until a secretary-treasurer is appointed by the Board of Management.

Board of  
Management,  
composition

(9) There shall be a board of management to be known as the Board of Management of the Inter-Urban Area of ..... which shall be a body corporate composed of one member for each ward in the area, to be elected as hereinafter provided.

Who may  
vote

(10) Every person whose name is on the voters' list for the municipality or the part thereof within the ward as entitled to vote at municipal elections is entitled to vote at the election of the member of the Board of Management to be elected for such ward.

Time and  
place of  
elections

(11) The first election of the Board of Management and any local board shall be held at the time and in the manner directed by the Municipal Board, and each election thereafter shall be held at the same time and place as the municipal elections of the municipality in which the ward is situated.

Election to  
be as  
municipal  
election

(12) Except as provided in this section, the members of the Board of Management and any local board shall be elected by ballot and the election shall be conducted by the same officials and in the same manner as the elections of aldermen and councillors, and the provisions of this Act respecting the time and manner of holding elections, including the resignation of persons nominated, vacancies and declarations of qualification for office, and decision in the case of a tie vote, apply *mutatis mutandis* to such election.

Two-year  
term

(13) Each member so elected shall hold office for two years and until his successor is elected.

Secretary-  
treasurer

(14) The Board of Management shall appoint a secretary-treasurer for the area and Board of Management, who shall hold office during pleasure and who, subject to the by-laws of the Board of Management, with respect to the area and the administration of its affairs and of its inhabitants has and



may exercise all the authority, powers and rights and shall perform all the duties and obligations that by statute or by-law are or may be conferred or imposed upon the clerk and treasurer of a municipality with the status designated by the Municipal Board in respect of the purposes for which the area is created.

(15) The auditors of the municipality having the largest <sup>Auditors</sup> assessment within the area shall be the auditors of the area and the local boards thereof.

(16) The secretary-treasurer shall be the returning officer <sup>Returning officer</sup> of the area and, in the event of two or more candidates in any ward having an equal number of votes, he shall give a vote for one of such candidates so as to decide the election.

(17) No person is eligible for election as a member of the <sup>Eligibility of</sup> Board of Management or any local board unless he is a <sup>candidates</sup> resident of the ward for which he is nominated and qualified to vote at municipal elections therein.

(18) Nominations for the first election of the members of <sup>Nominations</sup> the Board of Management or for any local board for any ward shall be held at the time and in the manner directed by the Municipal Board and each year thereafter the nominations shall be held at the same time and place as the nominations of municipal candidates for the municipality in which the ward is situated.

(19) A separate set of ballot papers shall be prepared by <sup>Ballot papers</sup> the clerk of the municipality for each of the wards or polling subdivisions containing the names of the candidates for the Board of Management and any local board in the same form as those used for councillors and aldermen.

(20) At the close of the poll in each municipality, the <sup>Duties of</sup> returning officer thereof shall transmit to the returning officer <sup>returning officer at</sup> of the area a sealed return showing the number of ballots cast <sup>close of poll</sup> for each of the candidates for election to the Board of Management and any local board and not later than 4 o'clock in the afternoon of the third day following the last of such elections the returning officer of the area shall make up from the returns so received by him the total number of votes cast for each candidate and publicly declare the result of the election, and he shall thereupon declare in writing over his signature the name of each person so elected and shall send by prepaid post a copy of such certificate to each candidate.

(21) Where the office of a member of the Board of Manage- <sup>Vacancies</sup> ment becomes vacant from any cause, the remaining members shall at the first meeting after the vacancy occurs appoint a qualified person, resident in the ward from which the member

so vacating his seat was elected, to fill the vacancy for the remaining part of the term from which his predecessor was elected.

**Meetings**

(22) The first meeting of the Board of Management shall be held at the time and place fixed by the order of the Municipal Board and each year thereafter the first meeting of the Board shall be held not later than the second Monday in January and the day and the hour for holding the meeting shall be fixed by by-law.

**Election of chairman**

(23) The secretary-treasurer shall preside at the election of the chairman or if there is no secretary-treasurer or in his absence the members present shall choose one of themselves to preside at such election and the member so chosen may vote as a member.

**Idem**

(24) In case of an equality of votes at the election of the chairman, the member who is assessed for the largest sum on the last revised assessment roll has a second or casting vote.

**Powers and duties of chairman**

(25) The chairman of the Board of Management shall be deemed to be and has all the rights, powers, privileges, duties and authority of the head of a council and municipality and a mayor or reeve of a city, town, village or township and the chairman of a local board as designated by the Municipal Board.

**Vice-chairman**

(26) The Board of Management shall appoint a vice-chairman who, during the absence of the chairman or if the office is vacant, has all the rights, powers, privileges, duties and authority of the chairman.

**Quorum**

(27) A majority of the members constituting the Board is a quorum.

**Status of area**

(28) The area is a local municipality for the purposes for which the area was created with the status of a city, town, village or township as is designated by the Municipal Board.

**Status of Board of Management**  
R.S.O. 1960,  
c. 98

(29) The Board of Management is a municipal council for the administration and management of the purposes for which the area was created and is a local board as defined in *The Department of Municipal Affairs Act* for such purposes as are designated by the Municipal Board, except school boards, library boards, boards of commissioners of police, planning boards, boards of health and health units.

**Board of Management supreme**

(30) The powers vested in the Board of Management under this section shall not be exercised by the councils of the local municipalities in the area or by the council of the county, if any, in which the area is situated and the county levy, if any, shall not include a levy upon the rateable property in the area for any of the purposes for which the area was created.

(31) Every board created or amalgamated for school purposes in the area has the status of a public school board, continuation school board, separate school board, board of education, high school board or collegiate institute board, or board of trustees of a township school area as is designated by the Municipal Board, and every such board is a corporation by the name of The Public School Board, or The Continuation School Board, or The Separate School Board, or The Board of Education, or The High School Board, or The Collegiate Institute Board, or The Board of Public School Trustees, of The Inter-Urban Area of ....., as the case may be, or such other designation as the Municipal Board by order or school board by by-law may provide, and the provisions of the respective school Acts governing such boards apply *mutatis mutandis* to such boards, except that each board shall be composed of one member for each ward elected for a term of two years at the time and in the manner herein provided by persons entitled to vote as public school supporters or separate school supporters, as the case may be, and the composition of the high school board or the collegiate institute board or the board of education shall also include the member or members to be appointed by the county or separate school board pursuant to Part II or Part IV of *The Secondary Schools and Boards of Education Act*, as the case may be. School boards  
R.S.O. 1960,  
c. 362

(32) Notwithstanding subsection 31, the Municipal Board may provide that a high school board or a collegiate institute board created under this section shall be composed of one or more members representing each local municipality in the area to be appointed by the council of each such municipality at the first meeting in each year and the members so appointed, with such additional members as are authorized by *The Secondary Schools and Boards of Education Act*, form such high school board or collegiate institute board, as the case may be. Exception

(33) When its assessment roll has been finally revised and corrected, the clerk of each municipality within the area shall within ninety days transmit to the secretary-treasurer of the area a summarized statement of the contents of the roll showing the population and the total assessment of each of the various classes of property liable to assessment and the total business assessment and the total assessment for public school, separate school and general purposes, and when required to do so by the area assessors, Board of Management, county judge or court, as the case may be, for the purpose of equalization or otherwise produce the original assessment roll of the municipality. Roll to be transmitted and produced

(34) The Board of Management shall equalize the real property assessments of the municipalities within the area Equalization of assessment



for public school, separate school, continuation school, board of education, high and collegiate school purposes, as the case may be, and for such other purposes as are designated by the Municipal Board in a similar manner as is done in the case of an equalization for county purposes and similar procedures and rights apply thereto as in the case of a county equalization and for such purposes every municipality or public or separate school board thereof in the area shall be considered a municipality within a county, and for such purposes the Board of Management may with the approval of the Department appoint assessors who shall have the same powers and duties as county assessors. 1954, c. 56, s. 1, *part*.

Basis for  
raising  
required  
sums

(35) The assessment of real property and business assessments as equalized in each municipality for the preceding year is the basis upon which any rate or sums required to be raised for each of the purposes of the area shall be apportioned. 1954, c. 56, s. 1, *part*; 1955, c. 48, s. 4.

Rates

(36) The Board of Management shall prepare and adopt estimates of all sums required during the year for the purposes of the area including the rates imposed by any separate school board and the sums required to be provided by the Board of Management for any board, commission or other body, and such estimates shall set forth the estimated revenue and expenditures in such form as the Department may prescribe and the Board of Management shall apportion the amounts required to be raised for each purpose among the municipalities within the area and the secretary-treasurer shall forthwith after such apportionment has been made certify to the clerk of each local municipality in the area the amount or rate to be levied thereon for each purpose for the current year and the sum shall be collected and levied upon the whole rateable property within such municipality according to the last revised assessment roll, except that the amounts or rates to be levied for public school or separate school purposes shall be collected and levied upon the whole rateable property of public school supporters or separate school supporters, as the case may be, and the total of such amounts shall be collected and paid over to the Board of Management at the time and in the manner required by the Board.

Estimates

(37) The Board of Management may by by-law require that the estimates for the current year for every board, commission or other body created for any of the purposes of the area and for which the Board of Management is by law required to raise or provide money shall be submitted to the Board of Management on or before the 1st day of March in each year and that such estimates shall be in the form and give the particulars that the by-law prescribes.

(38) The Board of Management in apportioning any rate or sums for any of the purposes of subsection 1 of section 295 shall add to the amount of the equalized assessment of each local municipality within the area any amounts exempted therefrom by reason of a fixed assessment or a partial or total exemption from assessment, except as provided in section 4 of *The Assessment Act*.

Rates to be  
levied on  
full values

R.S.O. 1960,  
c. 23

(39) In raising money for any of the purposes of the Board of Management by way of debentures, the assent of the electors is not required and, for current borrowing, section 329 applies *mutatis mutandis*.

Borrowing  
powers

(40) The Municipal Board may make such orders in respect of any matter not specifically provided for in this section as it may deem expedient in connection with the area and every such order is valid and binding upon all municipalities and local boards affected thereby.

Power to  
make  
additional  
orders, etc.

(41) The powers conferred upon the Municipal Board by this section may be exercised at any time notwithstanding any other provision in this Act or any other special or general Act and, in the event of conflict between the provisions of this section and the other provisions of this Act or any other special or general Act, the provisions of this section prevail save that nothing herein affects or limits the powers of a board of separate school trustees with respect to the imposing, levying and collecting of school rates, the borrowing of money for school purposes and the making of instruments for the security of payment thereof.

Conflict

(42) Any area created in unorganized territory is subject to Part III of *The Department of Municipal Affairs Act*, 1954, c. 56, s. 1, *part, amended*.

Unorganized  
territory  
R.S.O. 1960,  
c. 98

#### DISSOLUTIONS

**25.—(1)** In this section, “municipality” means local municipality, and includes,

Interpre-  
tation

- (a) a police village;
- (b) an elementary school board having jurisdiction only in territory without municipal organization;
- (c) a high school board having jurisdiction only in territory without municipal organization;
- (d) road commissioners under *The Statute Labour Act* having jurisdiction only in territory without municipal organization;
- (e) a board of management established under section 24.

R.S.O. 1960,  
c. 382

Dissolution  
of municipi-  
pality, etc.

- (2) Upon the application, authorized by by-law,
- (a) of a municipality to have the municipality dissolved;  
or
  - (b) of a municipality to have dissolved one of its local  
boards that it is not required by law to have and  
for the dissolution of which no provision is made by  
law; or
  - (c) of a municipality that adjoins territory without  
municipal organization for the detachment from the  
municipality of any part or parts thereof,

the Municipal Board may by order on such terms as it may  
deem expedient,

- (d) dissolve the municipality; or
- (e) dissolve the local board; or
- (f) detach from the municipality such part or parts or  
any larger or smaller part or parts,

as the case may be, and the order shall take effect on the day  
named therein.

Dissolution  
of board of  
management

(3) An application for the dissolution of a board of manage-  
ment established under section 24 may be made under sub-  
section 2 by the board of management or by any municipality  
within the area for which the board of management was  
established.

Application  
by Minister

(4) The Lieutenant Governor in Council may authorize  
the Minister of Municipal Affairs to apply to the Municipal  
Board for any purposes mentioned in clause *a*, *b* or *c* of sub-  
section 2, and in such case the Municipal Board has the same  
powers as if the application had been made under subsection 2  
by the municipality concerned.

Assent of  
electors

(5) The Municipal Board, before proceeding with an appli-  
cation under subsection 2, may require the assent of the elec-  
tors of the municipality.

Public  
hearing

(6) The Municipal Board, before making an order under  
subsection 2, shall hold a public hearing, after such notice  
thereof has been given as the Board may direct which shall in  
every case include a written notice to the Minister of Health,  
for the purpose of inquiring into the merits of the application  
and of hearing any objections that any person may desire  
to bring to the attention of the Board.

Powers of  
Board

(7) The Municipal Board may by any order under subsec-  
tion 2 or by subsequent order or orders,



- (a) in the case of an application under clause *a* of subsection 2, declare that the municipality dissolved shall be an improvement district or that the lands comprising the municipality or any part or parts thereof shall be annexed to another municipality or municipalities or that the lands comprising the municipality or any part or parts thereof shall become territory without municipal organization;
- (b) in the case of an application under clause *b* of subsection 2, provide for the disposition of the assets and liabilities of the local board in such manner as may be agreed upon or, in default of agreement, as the Board may deem equitable;
- (c) in the case of an application under clause *c* of subsection 2, declare that the lands detached from the applicant municipality shall be an improvement district or that such lands or any part or parts thereof shall be annexed to another municipality or municipalities or that such lands or any part or parts thereof shall become territory without municipal organization;
- (d) make all such adjustments of assets and liabilities as between any municipalities, including counties, affected by any such order as may be agreed upon or, in default of agreement, as the Board may deem equitable;
- (e) define the municipality dissolved or the lands detached as a special area and adjust the rights, claims, liabilities and obligations of the ratepayers of such area and provide the extent to and the manner in which the liabilities of the municipality dissolved or the lands detached shall be discharged by the imposition of rates upon the rateable property in such area or otherwise;
- (f) appoint one or more referees, who shall have all the powers mentioned in section 52 of *The Ontario Municipal Board Act*, to inquire into and report to the Board upon the disposition and adjustment of assets and liabilities and of the rights, claims, liabilities and obligations referred to in clauses *b*, *d* and *e*, or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer it back to the

R.S.O. 1960,  
c. 274

referee or referees for further consideration, and the order of the Board adopting, varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby;

- (g) fix the remuneration and expenses of the referee or referees and declare by whom and in what manner the remuneration and expenses shall be paid;
- (h) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the dissolution or detachment provided for in the order.

Rules, etc.

(8) The Municipal Board may make such rules and regulations and issue such orders and directions with respect to any matter not specifically provided for in this section as it may deem necessary or desirable in connection with the dissolution or detachment. 1954, c. 56, s. 1, *part*.

## PART II

### MUNICIPAL COUNCILS—HOW COMPOSED

#### COUNTIES

County  
councils

**26.**—(1) The council of a county shall be composed of the reeves and deputy reeves of the towns, not being separated towns, and of the villages and townships in the county.

Vote of  
reeve and  
deputy reeve  
in towns,  
villages and  
townships

(2) Where a town not being a separated town, or a village, or a township in a county, has more than 2,000 and not more than 3,000 municipal electors, the reeve as a member of the county council has an additional vote and, where it has more than 3,000 municipal electors, the reeve and the deputy reeve as members of the county council each has an additional vote.

Application  
of s. 33,  
subss. 2-4

(3) Subsections 2, 3 and 4 of section 33 apply to this section. R.S.O. 1950, c. 243, s. 48.

#### CITIES

Councils  
of cities,  
how com-  
posed

**27.**—(1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and,

- (a) three aldermen for each ward; or
- (b) where the council by by-law so provides, two aldermen for each ward;
- (c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides,

one alderman for every 1,000 of the population up to but not exceeding the maximum number provided by by-law.

(2) In the case provided for by clause *c* of subsection 1, <sup>By-law for election by general vote</sup> or where the council of a city having a population of more than 15,000 by by-law so provides, the aldermen shall be elected by general vote, and in the latter case the number of aldermen shall be the same as if they were elected by wards. R.S.O. 1950, c. 243, s. 49 (1, 2).

(3) A by-law for the purposes mentioned in clause *b* or *c* of subsection 1 shall not be repealed until at least two annual or biennial elections, as the case may be, have been held under it, and a by-law under subsection 2 shall not be repealed until at least five annual or three biennial elections, as the case may be, have been held under it. 1957, c. 76, s. 3. <sup>Repeal of by-law</sup>

(4) A by-law for any of the purposes mentioned in subsections 1 and 2 and a by-law repealing any such by-law shall <sup>When and how by-law to be passed</sup> be passed not later in the year than the 1st day of November and shall not be passed unless it has received the assent of the municipal electors. R.S.O. 1950, c. 243, s. 49 (4).

(5) Every such by-law including a repealing by-law shall <sup>When by-law to take effect</sup> take effect at and for the purposes of the municipal election next after the passing of it. R.S.O. 1950, c. 243, s. 49 (5); 1958, c. 65, s. 1 (1).

(6) Subject to subsection 3, where the petition of at least one-fifth of the municipal electors is presented on or before the 1st day of November in any year, praying for the passing of a by-law repealing a by-law for the purpose mentioned in clause *c* of subsection 1, or where a petition of not less than 400 electors is presented praying for the passing of a by-law for the purpose mentioned in subsection 2, or for the repeal of a by-law passed under that subsection, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing municipal election and if the voting is in favour of the change shall without delay pass a by-law in accordance with the prayer of the petition. R.S.O. 1950, c. 243, s. 49 (6); 1958, c. 65, s. 1 (2). <sup>Submission of by-law on petition of electors</sup>

#### TOWNS

**28.**—(1) The council of a town in unorganized territory shall be composed of a mayor and six councillors to be elected <sup>Councils of towns in unorganized territory</sup> by general vote or, where the council so provides, the council shall consist of a mayor and four councillors to be elected by general vote.



Councils of  
towns over  
5,000

(2) If the town has a population of not less than 5,000, the council may provide that the council shall be composed of a mayor and nine councillors, or a mayor and seven councillors, to be elected by general vote.

Election by  
wards

(3) Where a town in unorganized territory has been divided into wards, the council may provide that the council shall be composed of a mayor and one councillor for each ward, and the remaining councillors to complete the full number of four, six, seven or nine, as the case may be, to be elected by general vote. R.S.O. 1950, c. 243, s. 50.

Councils of  
towns of  
more than  
5,000 in  
counties

**29.**—(1) Where a town in a county has a population of more than 5,000 and less than five wards, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and three councillors for each ward, but, if there are five or more wards, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and two councillors for each ward. R.S.O. 1950, c. 243, s. 51 (1); 1958, c. 64, s. 3 (1).

Alternate  
powers

(2) Where the town has less than five wards, the council may provide that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and two councillors for each ward or that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and six councillors, or a mayor, a reeve, a deputy reeve where so entitled, and four councillors, to be elected by general vote, and, where the town has five or more wards, the council may provide that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and one councillor for each ward. 1958, c. 64, s. 3 (2).

Case of town  
of not more  
than 5,000

(3) Where the town has a population of not more than 5,000, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and,

- (a) six councillors to be elected by general vote or, where the council so provides, four councillors to be elected by general vote; or
- (b) where the council so provides, one councillor for each ward and the remaining councillors to complete the full number of four or six, as the case may be, to be elected by general vote. R.S.O. 1950, c. 243, s. 51 (3); 1958, c. 64, s. 3 (3).

Repeal of  
by-law

(4) A by-law passed under section 28 or under subsection 2 or 3 of this section shall not be repealed until two annual or biennial elections, as the case may be, have been held under it. 1957, c. 76, s. 4.

(5) A by-law passed under section 28 or under subsection 2 or 3 of this section, and a by-law repealing any such by-law, shall be passed not later in the year than the 1st day of November, and shall not be passed unless it has received the assent of the municipal electors. R.S.O. 1950, c. 243, s. 51 (5). Time for passing of by-laws; assent of electors

(6) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the municipal election next after its passing. R.S.O. 1950, c. 243, s. 51 (6); 1958, c. 64, s. 3 (4). When by-law to take effect

(7) Subject to subsection 4, where a petition of not less than one-fifth of the municipal electors is presented on or before the 1st day of November in any year praying for the passing of a by-law for any of the purposes mentioned in this section or for repealing any such by-law, except a by-law reducing the number of councillors to two for each ward, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing municipal election and if the voting is in favour of the proposed change shall without delay pass a by-law in accordance with the prayer of the petition. R.S.O. 1950, c. 243, s. 51 (7); 1958, c. 64, s. 3 (5). Submission of questions on petition of electors

(8) Subject to subsection 4, where a by-law has been passed for reducing the number of councillors to two for each ward, the council, upon the petition of not less than 100 resident municipal electors, presented not later in the year than the 1st day of November, shall submit the question of repealing the by-law to a vote of the electors at the next ensuing municipal election and if the voting is in favour of the repeal shall without delay pass a by-law in accordance with the prayer of the petition. R.S.O. 1950, c. 243, s. 51 (8); 1958, c. 64, s. 3 (6). Submission of question of repeal

**30.** For the purposes of sections 27 to 29, the population shall be determined by the latest census made by the assessor under *The Assessment Act*. 1951, c. 53, s. 1. Population R.S.O. 1960, c. 23

#### VILLAGES AND TOWNSHIPS

**31.**—(1) In a county, the council of a village and the council of a township shall consist of a reeve, a deputy reeve where so entitled, and a sufficient number of councillors to make up five in all, and they shall all be elected by general vote. R.S.O. 1950, c. 243, s. 53 (1); 1955, c. 48, s. 5. Councils of villages and townships in counties

(2) Where a village or township is divided into wards, the council, notwithstanding any general or special Act, shall be composed of a reeve to be elected by general vote, and a deputy reeve and a councillor to be elected for each ward and, where there are less than five wards, the Municipal Board Wards

may by order provide for an additional councillor for any ward having a population greater than 10,000.

County  
council

(3) Notwithstanding any other provision, no village or township shall have greater representation upon the county council than the reeve and one deputy reeve to be appointed by the council. R.S.O. 1950, c. 243, s. 53 (3, 4).

Alternative  
composition  
where wards

(4) The council of a village or township divided into wards may by by-law provide that thereafter the council shall be composed of a reeve and deputy reeve, each to be elected by general vote, and a councillor to be elected for each ward and where there are less than five wards the by-law may also provide for an additional councillor to be elected for any ward having a population greater than 10,000. 1951, c. 53, s. 2, *part*; 1960, c. 69, s. 2.

Repeal

(5) A by-law passed under subsection 4 shall not be repealed until at least two annual or biennial elections, as the case may be, have been held under it. 1951, c. 53, s. 2, *part*; 1958, c. 65, s. 2 (1).

Time for  
passing;  
assent of  
electors

(6) A by-law for the purpose mentioned in subsection 4 and a by-law repealing any such by-law shall not be passed later in the year than the 1st day of November and shall not be passed unless it has received the assent of the municipal electors. 1951, c. 53, s. 2, *part*.

Where assent  
unnecessary

(7) Notwithstanding subsection 6, a by-law for the purpose mentioned in subsection 4 may be passed without the assent of the municipal electors if a by-law or a question for the division of the municipality into wards has received the assent of the municipal electors. 1953, c. 70, s. 2; 1954, c. 56, s. 2 (2).

Effective  
date

(8) Every such by-law, including a repealing by-law, shall take effect at and for the purpose of the municipal election next after the passing of it. 1951, c. 53, s. 2, *part*; 1958, c. 65, s. 2 (2).

Village and  
township in  
unorganized  
territory

**32.** In unorganized territory, the council of a village and the council of a township shall consist of a reeve and four councillors. 1954, c. 56, s. 3.

#### TOWNS, VILLAGES AND TOWNSHIPS

Deputy  
reeves

**33.**—(1) Every town not being a separated town, village and township in a county is entitled where it has more than 1,000 municipal electors to a deputy reeve. R.S.O. 1950, c. 243, s. 54 (1).

Number of  
electors,  
how deter-  
mined

(2) The number of municipal electors shall be determined by the last revised voters' list but, in counting the names, the name of the same person shall not be counted more than once,



and the name of a person who is a municipal elector by reason of being the wife or husband of the person so rated or entitled to be rated for land as mentioned in clause *d* of subsection 1 of section 37 or who is entered on the list as a farmer's daughter of farmer's sister or farmer's son's wife shall not be counted. 1958, c. 64, s. 4.

(3) It is the duty of the clerk of any such municipality having less than 10,000 municipal electors according to the last revised voters' list at least six days before the day fixed for holding the meeting for the nomination of candidates for membership in the council to send by registered mail to the clerk of the county a certificate under his hand and the seal of the corporation, stating the total number of municipal electors according to the last revised voters' list who are to be counted under subsection 2, and to post up in his office a duplicate of such certificate. <sup>Certificate of clerk</sup>

(4) If the clerk fails to send such certificate within the <sup>Offence</sup> prescribed time, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and, if he certifies to a larger number of municipal electors than should be counted under subsection 2, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 243, ss. 54 (3, 4), 493.

#### QUALIFICATIONS

**34.—**(1) Every person is qualified to be elected a member <sup>Qualification of</sup> of the council of a local municipality who, <sup>of candidates</sup>

- (a) is a householder residing in the municipality, or is rated on the last revised assessment roll of the municipality for land held in his own right for an amount sufficient to entitle him to be entered on the voters' list and resides in or within five miles of the municipality or is the wife of a householder and who resides in or within five miles of the municipality;
- (b) is entered on the last revised voters' list as qualified to vote at municipal elections;
- (c) is a British subject and has taken the oath of allegiance (Form 2);
- (d) is of the full age of twenty-one years; and
- (e) is not disqualified under this or any other Act. R.S.O. 1950, c. 243, s. 55 (1); 1959, c. 62, s. 3.

(2) The rating for land shall be in respect of a freehold <sup>Rating for land</sup> or leasehold, legal or equitable, or partly of each.

Interpre-  
tation

(3) "Householder" means the person who occupies and is assessed as owner or tenant of a dwelling or apartment house or part of a dwelling or apartment house separately occupied as a dwelling.

Qualification  
where land  
annexed to  
urban  
municipal-  
ity

(4) Where territory has been annexed to an urban municipality, until an assessment roll for the municipality, including such territory, has been made and revised, it is sufficient for the purposes of this section if the assessment is upon the last revised assessment roll of the municipality in which the territory was situate before its annexation, and for a sufficient amount to qualify him for election to the council of that municipality. R.S.O. 1950, c. 243, s. 55 (2-4).

Qualification  
in new  
township

(5) Where the inhabitants of a locality in unorganized territory have become incorporated as a township or a union of townships, the only qualification necessary at the first election is that the person is of the full age of twenty-one years, a British subject and a householder resident in the municipality. R.S.O. 1950, c. 243, s. 55 (5); 1951, c. 53, s. 3.

#### DISQUALIFICATION

Persons  
disqualified  
from being  
members of  
a council

**35.—**(1) The following are not eligible to be elected a member of a council or entitled to sit or vote therein:

- (a) a judge of any court;
- (b) a jailer or a keeper of a lock-up;
- (c) a sheriff, deputy sheriff or sheriff's bailiff;
- (d) a chief constable of a city or town;
- (e) an assessment commissioner, assessor, a collector of taxes, a treasurer, a clerk, or any other officer, employee or servant of the corporation of a municipality; R.S.O. 1950, c. 243, s. 56 (1), cls. (a-e).
- (f) a trustee of a police village unless he has before the opening of the nomination meeting filed his resignation with the township clerk; R.S.O. 1950, c. 243, s. 56 (1), cl. (f); 1954, c. 56, s. 4 (1).
- (g) a person, other than the head of the council or a member of council appointed under section 214 to act in place of the head of the council, who is a member of a board or commission appointed or elected for the construction, management or control of a transportation system that is owned by, or leased to, or controlled by a municipal corporation, or by trustees, or by any board or commission acting for or on behalf of such corporation, unless before

the opening of the nomination meeting he has filed his resignation with the clerk of the municipality, and this clause has effect notwithstanding any general or special Act or any by-law of a municipal corporation; 1957, c. 76, s. 6.

- (h) a person other than the head of the council who is an appointed or elected member of a board, commission or other body to which the construction, management or control of a public utility belonging to the corporation of the municipality is entrusted under *The Power Commission Act, The Public Utilities Act*, <sup>R.S.O. 1960,  
cc. 300, 335</sup> or any special Act unless before the opening of the nomination meeting he has filed his resignation with the clerk of the municipality; R.S.O. 1950, c. 243, s. 56 (1), cl. (h); 1956, c. 50, s. 2 (2).
- (i) a clerk or bailiff of a division court;
- (j) a Crown attorney or a clerk of the peace;
- (k) a registrar or a deputy registrar of deeds;
- (l) a master or a local master of titles; R.S.O. 1950, c. 243, s. 56 (1), cls. (i-l).
- (m) a member of a board of education or of a public, separate or high school board, unless before the opening of the nomination meeting he has filed his resignation with the secretary of the board; R.S.O. 1950, c. 243, s. 56 (1), cl. (m); 1956, c. 50, s. 2 (3).
- (n) a magistrate;
- (o) a clerk of a county or district court;
- (p) a deputy clerk of the Crown or a local registrar;
- (q) a person having himself or by or with or through another an interest in any contract with the corporation or with any commission or person acting for the corporation or in any contract for the supply of goods or materials to a contractor for work for which the corporation pays or is liable directly or indirectly to pay, or which is subject to the control or supervision of the council or of an officer of the corporation, or who has an unsatisfied claim for such goods or materials:
  - (i) "contract" in this clause includes a contract, other than a teacher's contract, with a public or high school board or a board of education; R.S.O. 1950, c. 243, s. 56 (1), cls. (n-q).



- (r) a person who, either himself or by or with or through another has any claim, action or proceeding against the corporation, but this clause does not apply with respect to any moneys paid or payable to a member of a council under section 203, 212, 405, 406, 407 or 409; R.S.O. 1950, c. 243, s. 56 (1), cl. (r); 1952, c. 63, s. 3.
- (s) a person who, either himself or by or with or through another, is counsel or solicitor in the prosecution of any claim, action or proceeding against the corporation or in opposing or defending any claim, action or proceeding by the corporation; R.S.O. 1950, c. 243, s. 56 (1), cl. (s).
- (t) an owner or tenant against the land in respect of which he qualifies there are at the time of the opening of the nomination meeting any taxes of a preceding year or years overdue and unpaid; R.S.O. 1950, c. 243, s. 56 (1), cl. (t); 1951, c. 53, s. 4 (1).
- (u) a tenant who at the time of the opening of the nomination meeting owes more than three months rent upon the property in respect of which he qualifies; R.S.O. 1950, c. 243, s. 56 (1), cl. (u); 1954, c. 56, s. 4 (2).
- (v) a person who is an undischarged bankrupt or insolvent within the meaning of any bankruptcy or insolvency Act in force in Ontario; R.S.O. 1950, c. 243, s. 56 (1), cl. (v).
- (w) a person whose taxes in respect of an assessment for business at the time of the opening of the nomination meeting are overdue and unpaid. R.S.O. 1950, c. 243, s. 56 (1), cl. (w); 1951, c. 53, s. 4 (2).

Ineligibility of member whose term of office has not expired to qualify for another office unless he resigns his present office

(2) In any municipality in which under this or any special Act members of council are elected for a term of two or more years, no person who is a member of the council and whose term of office has at least two months to run after the day on which the nomination meeting for the next ensuing municipal election is to be held is eligible to be nominated for membership in the council in any other office unless he has at least ten days before the day of nomination filed his resignation from the office that he then holds with the clerk of the municipality, and the clerk shall not place on the ballot paper the name of any such person as a candidate who fails to file such resignation within the time aforesaid. R.S.O. 1950, c. 243, s. 56 (2); 1960, c. 69, s. 3 (1).

- (3) Subsection 1 does not apply to a person by reason only, Disqualification not to apply in certain cases
- (a) of his being a shareholder in an incorporated company having dealings or a contract with the corporation;
  - (b) of his being a lessee of the corporation for a term of twenty-one years or upwards of any property of the corporation;
  - (c) that part of his property is exempt wholly or in part from taxation, whether such exemption is founded on an agreement with the corporation or on a by-law of the council;
  - (d) of his being the proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements or notices that appear in other newspapers or periodical publications are published by the council or for which the council is a subscriber or which is furnished to any department or officer of a corporation if the same are paid for at the usual rates, and he has not agreed with the corporation to do the whole or the principal part of its printing;
  - (e) of his having been appointed and paid for his services as commissioner, superintendent or overseer of any work, other than a highway, undertaken wholly or in part at the expense of the corporation;
  - (f) of his being a consumer or taker of anything supplied by the corporation or any commission under *The Public Utilities Act* or of his having entered into a contract with the corporation or commission for the supply of it to him; R.S.O. 1960, c. 335
  - (g) of his having entered into an agreement of sale with a municipal housing commission;
  - (h) while being a member of council, of his acting in the place and stead of the head of the council as a member of any board, commission or other body of which the head of the council is a member *ex officio* under any general or special Act; R.S.O. 1950, c. 243, s. 56 (3); 1960, c. 69, s. 3 (2).
  - (i) of his purchasing or owning a debenture of the corporation; 1958, c. 64, s. 5.
  - (j) of his being related by blood or marriage to a person employed by the corporation. 1959, c. 62, s. 4.
- (4) A person being such a shareholder shall not vote on any question affecting the company or being such a lessee shall not Persons not to vote on certain questions

vote on any question affecting his lease or his rights or liabilities thereunder, or being so exempt from taxation shall not vote on any question affecting the property so exempt, or being such a proprietor of or otherwise interested in a newspaper or other periodical publication shall not vote on any question affecting his dealings with the corporation.

Resignation,  
when to  
vacate seat

(5) The filing of the resignation mentioned in clause *m* of subsection 1 renders vacant the seat of the member.

Appoint-  
ments to  
two com-  
missions,  
etc.

(6) Notwithstanding the provisions of clause *g* of subsection 1 and of section 42 of *The Public Utilities Act*, a member of a board or commission appointed or elected for the construction, management or control of a transportation system mentioned in the said clause *g* may be appointed or elected and be entitled to sit and vote as a member of a commission established under *The Power Commission Act*, *The Public Utilities Act* or any special Act for the management and control of a public utility. R.S.O. 1950, c. 243, s. 56 (4-6).

R.S.O. 1960,  
cc. 300, 335

Contracts  
by members  
with corpor-  
ation to be  
void

**36.** If a member of a council in his own name or in that of another and alone or jointly with another enters into a contract with or makes a purchase from or a sale to the corporation, the contract, purchase or sale as against the corporation is void. R.S.O. 1950, c. 243, s. 57.

### PART III

#### MUNICIPAL ELECTIONS

##### WHO TO BE ENTERED ON VOTERS' LIST

Qualifica-  
tion to be  
entered on  
voters' list  
R.S.O. 1960,  
c. 420

**37.—(1)** Every person is entitled to be entered on the voters' list prepared under *The Voters' Lists Act* who is,

- (a) of the full age of twenty-one years;
- (b) a British subject by birth or naturalization;
- (c) not disqualified under this Act or otherwise by law prohibited from voting; and
- (d) rated or entitled to be rated to the amount herein-after mentioned on the last revised assessment roll of the local municipality for land held in his or her own right as owner or tenant or who is the wife or husband of the person so rated or entitled to be rated for land as owner or tenant, or who is entered or was entitled to be entered on such roll as a farmer's son, farmer's daughter or farmer's sister or who is the wife of a person who is entered or was entitled to be entered on such roll as a farmer's son; or



- (e) in lieu of the qualification required by clause *d*, renting a building owned by and vested in The Hydro-Electric Power Commission of Ontario in respect of which a payment is made under subsection 2 of section 48 of *The Power Commission Act* in any year, the assessed value of which, when added to the assessed value of the land on which it is located, amounts to a sum that would entitle such person to be rated on the last revised assessment roll as tenant if the land and building were owned or held by any other person, or who is the wife or husband of such person. R.S.O. 1960, c. 300 R.S.O. 1950, c. 243, s. 58 (1); 1953, c. 70, s. 3; 1954, c. 56, s. 5 (1); 1957, c. 76, s. 7.

(2) The rating for land shall be in respect of a freehold or leasehold, legal or equitable, or partly of each to an amount not less than, Amount of rating necessary

- (a) in villages and townships, \$100;
- (b) in towns having a population not exceeding 3,000, \$200;
- (c) in towns having a population exceeding 3,000, \$300;
- (d) in cities, \$400.

(3) If both the owner and the occupant are severally but not jointly rated, each shall be deemed to be rated. Where owner and occupant severally rated

(4) If the rating of land owned or occupied by two or more persons jointly and not severally is sufficient, if equally divided among them, to give a qualification to all, each of them shall be deemed to be rated within the meaning of this section, and if such rating is insufficient to qualify all, so many of them shall be deemed to be rated within the meaning of this section as will result in whole numbers from a division of the minimum rating prescribed by subsection 2 into the total rating of the land, and in such case the persons who shall be deemed to be rated shall be named in a writing to be signed by all such joint owners or occupants and upon such nomination being filed with the clerk. Joint tenancy R.S.O. 1950, c. 243, s. 58 (2-4).

(5) A person not entitled under *The Assessment Act* to be entered on the last revised assessment roll as a farmer's son, or farmer's daughter, or a farmer's sister, by reason of not having resided on the farm as therein required, is entitled to be entered on the voters' list if he or she has the other qualifications of a farmer's son, or a farmer's daughter, or a farmer's sister as prescribed by that Act and has resided on the farm of his or her father or mother or brother for the twelve months next preceding the date of the final revision of the assessment Farmers' sons, daughters and sisters R.S.O. 1960, c. 23

roll or for the twelve months next preceding the last day for making complaint to the judge under *The Voters' Lists Act*, and, where under the provisions hereof a farmer's son is entered on the list, his wife, if otherwise qualified, shall also be entered thereon. R.S.O. 1960, c. 420

Occasional  
or tem-  
porary  
absence

(6) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months does not disentitle a farmer's son, farmer's daughter or farmer's sister to be entered on the voters' list. R.S.O. 1950, c. 243, s. 58 (6).

Certificate  
for voters  
if names  
omitted

(7) Where after the voters' list has been finally revised the clerk is satisfied that the name of a person entitled to be entered thereon under this section has by error been omitted therefrom, he may, if such person is entered on the last revised assessment roll, or has been added to the assessment roll under section 54 of *The Assessment Act*, and is not otherwise disqualified, issue a certificate (Form 10), authorizing the returning officer or proper deputy returning officer to enter the name of such person on the voters' list to entitle him to vote as if his name had been entered thereon before the list was revised. R.S.O. 1950, c. 243, s. 58 (7); 1952, c. 63, s. 4.

Idem

(8) Where after the voters' list has been finally revised and the name of a person entitled to be entered thereon under this section has been omitted therefrom because such person is entered on the assessment roll as an alien, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he is not an alien and is not otherwise disqualified, the clerk may issue a certificate (Form 10) authorizing the returning officer, the proper deputy returning officer or proper poll clerk to enter the name of such person on the voters' list to entitle him to vote as if his name had been entered thereon before the list was revised.

Idem

(9) Where after the voters' list has been finally revised and the name of a person entitled to be entered thereon under this section by reason of being the wife or husband of a person rated or entitled to be rated for land as owner or tenant has been omitted therefrom, if the person rated or entitled to be rated for land as owner or tenant is entered on the last revised assessment roll or has been added to the assessment roll under section 54 of *The Assessment Act* and such wife or husband is not otherwise disqualified, the clerk may issue a certificate (Form 10) authorizing the returning officer or proper deputy returning officer or proper poll clerk to enter the name of such wife or husband on the voters' list to entitle her or him to vote as if her or his name had been entered thereon before the list was revised. 1956, c. 50, s. 3.

R.S.O. 1960,  
c. 23

## RIGHT TO VOTE

**38.** Subject to sections 40 and 41, every person whose name is entered on the proper voters' list is entitled to vote at a municipal election, except that in the case of the wife or husband of a tenant she or he is not entitled to vote unless the tenant is a resident of the municipality at the date of and has resided therein for one month next before the election and in the case of a farmer's son or farmer's daughter, or farmer's sister, he or she is a resident of the municipality at the date of the election. R.S.O. 1950, c. 243, s. 59; 1955, c. 48, s. 6.

Right to  
vote at  
municipal  
elections

**39.** Except as to the disqualification arising from not residing in the municipality at the time of the election in the case of a farmer's son, or farmer's daughter, or farmer's sister, or from the non-payment of taxes in the case of a voter whose name appears on the defaulters' list, or from the tenant not residing in the municipality at the date of and for one month next before the election in the case of a voter who is the husband or wife of the tenant, no question as to the qualifications of any person whose name is entered on the proper list of voters shall be raised at an election. R.S.O. 1950, c. 243, s. 60; 1954, c. 56, s. 6.

Qualifica-  
tions not to  
be ques-  
tioned  
at election  
except as  
to non-  
residence

**40.**—(1) No person whose name appears on the defaulters' list provided for by section 83 is entitled to vote in respect of real property in a municipality the council of which has passed, a by-law under paragraph 51 of subsection 1 of section 379, unless at the time of tendering his vote he produces and leaves with the deputy returning officer a certificate from the treasurer, or the collector, showing that the taxes in respect of which the default was made have since been paid.

Persons in  
default for  
non-payment  
of taxes  
not to vote

(2) The deputy returning officer shall file the certificate and note the same on the defaulters' list. R.S.O. 1950, c. 243, s. 62.

Certificate to  
be filed

**41.** The clerk of the municipality is not entitled to vote except to give a casting vote as provided by section 119. R.S.O. 1950, c. 243, s. 63.

Clerk may  
give a cast-  
ing vote  
only

**42.** Where territory has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory erected into a town, or a new town or village erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such territory, or for the new town or village, is certified by the judge, all persons who would have been qualified as municipal electors if such addition had not been made or the new town or village erected are entitled to vote in the city, town or village at such election. R.S.O. 1950, c. 243, s. 65.

Where  
territory  
added to  
city, town or  
village, or a  
new city,  
town or vil-  
lage erected  
with added  
territory,  
and no  
voters' lists  
including  
such  
territory



## NOMINATION MEETING

Nomina-  
tion and  
polling days

**43.—**(1) Except when otherwise provided by by-law passed in accordance with this Act, a meeting of the electors shall take place annually for the nomination of candidates for council and any local board or commission any members of which are required to be elected by ballot by the municipal electors at the hall of the municipality at noon on the last Monday in December and the day for polling shall be the first Monday in January next thereafter.

When  
nomination  
day falls on  
Christmas

(2) When the last Monday in December is Christmas Day, the nomination meeting shall be held on the preceding Friday.

Power to  
fix place  
and hour  
of nomina-  
tion meeting

(3) The council may by by-law passed not later in the year than the 1st day of November fix the place and time of the nomination meeting and when the election for any office is by general vote the by-law may fix different places and times for the nomination meeting for the respective offices and when the election is by wards the by-law may fix the place and the time in each ward for the nomination meeting thereof, and the by-law remains in force from year to year until repealed. R.S.O. 1950, c. 243, s. 66.

Power to  
fix nomina-  
tion and  
polling days

**44.—**(1) The council may, not later in the year than the 1st day of November, fix the day for the meeting of electors for the nomination of candidates for council and for any local board or commission any members of which are to be elected by ballot by the electors and the day for the polling, provided that the days so fixed occur during the period from the 15th day of November to the 2nd day of January both inclusive, and are other than a Sunday or the 24th, 25th or 31st days of December, and that the day fixed for nominations is not less than seven days prior to the day fixed for polling, and the by-law remains in force from year to year until repealed, but no such by-law shall be amended or repealed after the 1st day of November in any year.

Time and  
place of  
nomination  
meetings

(2) The by-law shall fix the place and the time of the nomination meeting, and when the election is by general vote the by-law may fix different places and times for the nomination meeting for the respective offices, and when the election is by wards the by-law may fix the place and the time in each ward for the nomination meeting thereof.

Where a  
township  
adjoins an  
urban  
municipality

(3) Where a township adjoins an urban municipality, a place within the urban municipality may be designated as the place for holding the nomination meeting of the township. R.S.O. 1950, c. 243, s. 67.

Notice

**45.** The returning officer shall give notice of the nomination meeting, at least six days before the meeting, by publica-

tion in a newspaper having general circulation in the municipality and, in any township where there is no newspaper having general circulation, by posting notice thereof in at least two conspicuous places in the township. 1958, c. 64, s. 6.

**46.**—(1) The nomination meeting shall be called to order by the returning officer at the place and time called for in the notice mentioned in section 45 and the candidates for each office shall be proposed and seconded *seriatim*. R.S.O. 1950, c. 243, s. 70 (1). <sup>Nomination meetings procedure</sup>

(2) Every nomination shall be in writing and state the name, residence and occupation of the candidate and the residence and occupation of the proposer and seconder and shall be signed by the proposer and seconder, both of whom shall be municipal electors and present, and shall be filed with the returning officer within one hour from the opening of the nomination meeting. R.S.O. 1950, c. 243, s. 70 (2); 1952, c. 63, s. 5. <sup>Nomination papers</sup>

(3) Failure to comply with subsection 1 or 2 does not invalidate any nomination if it is received and acted upon by the returning officer without objection. R.S.O. 1950, c. 243, s. 70 (3). <sup>Effect of non-compliance with subs. 1 or 2</sup>

(4) Where a proposed candidate is not present, his nomination paper is not valid unless there is evidence satisfactory to the returning officer that he consents to be so nominated. R.S.O. 1950, c. 243, s. 70 (4); 1955, c. 48, s. 9. <sup>When proposed candidate absent</sup>

(5) The name, residence and occupation of every person nominated for the respective offices shall be posted up as the nomination papers are filed. R.S.O. 1950, c. 243, s. 70 (5). <sup>Posting up of candidates' names, etc.</sup>

(6) At the nomination meeting or before 9 o'clock in the afternoon of the same day or within an hour of the close of the nomination meeting, whichever is the later, a candidate may resign in respect of one or more offices for which he is nominated by filing his resignation in writing with the returning officer or the clerk and in default he shall be deemed to be nominated for the office for which he was first nominated. R.S.O. 1950, c. 243, s. 70 (6); 1957, c. 76, s. 8. <sup>Resignation of candidates</sup>

(7) When a candidate makes the filings mentioned in subsection 1 of section 48 by filing them with the returning officer or the clerk at the nomination meeting or before 9 o'clock in the afternoon of the same day, he shall be deemed to have resigned as candidate for all other offices for which he was nominated. <sup>Qualification of candidate</sup>

(8) The returning officer shall not close the nomination meeting until such business as he considers may properly be brought before it has been disposed of. <sup>Close of meeting</sup>

Furnishing  
of certifi-  
cates

(9) The treasurer or collector of the municipality shall be in attendance at his office, or such place as is designated by the council, at least one hour prior to the holding of the nomination meeting for the purpose of furnishing the certificates referred to in subsection 1 of section 48. R.S.O. 1950, c. 243, s. 70 (7-9).

Names of  
candidates  
to be  
posted up

47. Immediately following the nomination meeting, the returning officer shall post up in the office of the clerk the name, residence and occupation of every person nominated for the respective offices. R.S.O. 1950, c. 243, s. 71.

Declaration  
of qualifi-  
cation,  
etc.

48.—(1) Before 9 o'clock in the afternoon of the day following the nomination meeting, provided that where such day is a holiday, not on such day but before noon on the following day, every candidate shall file in the office of the clerk,

(a) a declaration of qualification (Form 1);

(b) an oath of allegiance (Form 2); and

(c) a certificate of the treasurer or collector that there were, at the time of the opening of the nomination meeting, no unpaid taxes for any preceding year against the land in respect of which he is qualifying and no unpaid taxes against him in respect of an assessment for business, or a statutory declaration to the same effect. R.S.O. 1950, c. 243, s. 72 (1); 1951, c. 53, s. 5; 1952, c. 63, s. 6.

Absence or  
illness of  
candidates

(2) When a candidate is unable on account of illness or absence from the municipality to make the declaration or to file it within the prescribed time and it appears to the clerk that the candidate is qualified to be elected, any municipal elector may in lieu of such declaration file within the prescribed time a declaration stating that the inability exists and the nature of it and that he has reason to believe and does believe that the candidate possesses the qualifications prescribed for the office for which he has been nominated and that if elected he will accept the office.

Withdrawal  
of  
candidates

(3) Any person who has made the filings required by subsection 1 may resign in writing signed by him and attested by a witness and delivered to the clerk within the time prescribed in subsection 1.

Clerk's  
office to  
remain  
open

(4) The clerk's office shall remain open until 9 o'clock in the afternoon of the day following the nomination meeting, but if that day is a holiday it shall be closed, in which case it shall remain open the following day until noon, so that filings may be made.



(5) The clerk shall not place on the ballot paper the name of a candidate who fails to make the filings required by subsection 1 or on whose behalf a declaration has not been filed under subsection 2. R.S.O. 1950, c. 243, s. 72 (2-5). <sup>Failure to file</sup>

**49.** If no more candidates qualify for any office than the number to be elected, the clerk shall forthwith after the expiry of the time prescribed in section 48 declare the candidate or candidates duly elected. R.S.O. 1950, c. 243, s. 73. <sup>Acclamations</sup>

**50.** Where from any cause the requisite number of persons is not elected, the clerk shall cause a new election to be held as soon as practicable to fill the vacancies, and, until such election is held and the council, or sufficient members to exceed one-half thereof when complete, is elected, the council of the preceding year shall continue in office. R.S.O. 1950, c. 243, s. 74. <sup>New election</sup>

**51.** If a candidate for any office dies after having qualified and before the close of the poll, the returning officer shall fix a new day for the nomination of candidates for such office and for polling, and the proceedings in such case shall, as nearly as practicable, be the same as for a new election. R.S.O. 1950, c. 243, s. 75. <sup>New election in case of death of candidate</sup>

**52.** The members of a council shall hold office until their successors are elected and the new council is organized. R.S.O. 1950, c. 243, s. 76. <sup>Term of office</sup>

**53.**—(1) Notwithstanding any general or special Act, the council of a local municipality may by by-law provide that thereafter the term of office of members of the council of the municipality shall be two years. <sup>Two-year term</sup>

(2) A by-law passed under subsection 1 may provide, <sup>Biennial elections, staggered system</sup>

(a) for biennial elections, in which case an election shall be held every two years; or

(b) for the staggered system of elections in which case an election shall be held every year.

(3) Where the by-law provides for biennial elections, all the members of council elected at the election next after the passing of the by-law and thereafter shall hold office for a two-year term. <sup>Biennial elections</sup>

(4) Where the by-law provides for the staggered system, <sup>Staggered system</sup>

(a) the mayor, the reeve and the deputy reeve or deputy Reeves elected at the election next after the passing

of the by-law and thereafter shall hold office for a two-year term;

- (b) the one-half of the members of the board of control, other than the mayor, receiving the highest number of votes at the election next after the passing of the by-law shall remain in office for a two-year term and the other one-half shall remain in office for a one-year term and thereafter each member of the board of control shall be elected for a two-year term;
- (c) where other members of council are elected by general vote, the one-half, or in the case of an uneven number the majority, of such members receiving the highest number of votes at the election next after the passing of the by-law shall remain in office for a two-year term and the remainder shall remain in office for a one-year term and thereafter each member shall be elected for a two-year term;
- (d) where other members of council are elected by wards and two or more members other than a deputy reeve are elected in a ward, the one-half, or in the case of an uneven number the majority, of such members receiving the highest number of votes in the ward at the election next after the passing of the by-law shall remain in office for a two-year term, and the remainder shall remain in office for a one-year term, and thereafter each member shall be elected for a two-year term;
- (e) where other members of council are elected by wards and only one member other than a deputy reeve is elected in a ward, the member elected in the ward at the election next after the passing of the by-law shall remain in office for a one-year term and thereafter the member for the ward shall be elected for a two-year term.

Acclama-  
tions

(5) Where a by-law providing for the staggered system is passed and the full number of members of the board of control, or the full number of members to be elected by general vote, or the full number of members to be elected in a ward, are elected by acclamation at the election next after the passing of the by-law, the affected members so elected may at the first meeting of the new council agree as to which of them shall remain in office for a two-year term and which for a one-year term, and failing agreement the question shall be determined by lot cast by the clerk in the presence of the members, and in either case the result shall be entered in the minutes.

(6) Where a by-law has been or is passed under sub-<sup>Local boards</sup> section 1, the council may by by-law passed not later in the year than the 1st day of November provide that every elected member of any local board as defined in *The Department of* <sup>R.S.O. 1960, c. 98</sup> *Municipal Affairs Act* that is designated in the by-law shall, notwithstanding any general or special Act, be elected at the same time and hold office for the same term as the members of the council and, where the power conferred by this subsection is exercised in respect of any local board, all the elected members of such board in office when the by-law is passed cease to hold office at the end of the year in which the by-law is passed and subsection 3 or subsections 4 and 5 apply *mutatis mutandis*.

(7) A by-law under subsection 6 shall be passed not later <sup>Time for passing by-law under subs. 6</sup> in the year than the 1st day of November and,

(a) where the by-law under subsection 1 provides for biennial elections, shall be passed in the year in which the by-law under subsection 1 is passed or in any year in which a nomination meeting is to be held in respect of a biennial election;

(b) where the by-law under subsection 1 provides for the staggered system of elections, may be passed in the year in which the by-law under subsection 1 is passed or in any subsequent year. 1955, c. 48, s. 10, *part*.

(8) A by-law under subsection 1 and a by-law repealing <sup>Time for passing by-law; assent of electors</sup> such a by-law shall be passed not later in the year than the 1st day of November and a by-law providing for the staggered system of elections shall not be passed unless it has received the assent of the electors. 1955, c. 48, s. 10, *part*; 1956, c. 50, s. 4.

(9) Subject to section 54, where a by-law passed under <sup>Repeal</sup> subsection 1 is repealed, the members of the council and, where the power conferred by subsection 6 has been exercised, the elected members of any local board affected cease to hold office at the end of the year in which the repealing by-law is passed and an election shall be held for the members of council and of such local board for the ensuing year and thereafter as if the by-law had not been passed under subsection 1. 1955, c. 48, s. 10, *part*.

**54.—**(1) Notwithstanding any general or special Act, <sup>Change from biennial to staggered system</sup> where a by-law providing for biennial elections is in effect in a municipality, the council of the municipality may by by-law repeal such by-law and provide for the staggered system of elections.



Idem

(2) Where a by-law is passed under subsection 1, the members of the council and, where the power conferred by subsection 6 of section 53 has been exercised, the elected members of any local board affected cease to hold office at the end of the year in which the by-law is passed and subsections 4 and 5 of section 53 apply *mutatis mutandis*.

Change from  
staggered to  
biennial  
system

(3) Notwithstanding any general or special Act, where a by-law providing for the staggered system of elections is in effect in a municipality, the council of the municipality may by by-law repeal such by-law and provide for biennial elections.

Idem

(4) Where a by-law is passed under subsection 3, the members of the council and, where the power conferred by subsection 6 of section 53 has been exercised, the elected members of any local board affected cease to hold office at the end of the year in which the by-law is passed and subsection 3 of section 53 applies *mutatis mutandis*. 1955, c. 48, s. 10, *part*.

Time for  
passing of  
by-law;  
assent of  
electors

(5) A by-law under subsection 1 or 3 shall be passed not later in the year than the 1st day of November and a by-law under subsection 1 shall not be passed unless it has received the assent of the electors. 1955, c. 48, s. 10, *part*; 1956, c. 50, s. 5.

Election to  
be held in  
municipality

**55.** Subject to subsection 3 of section 44 and to section 63, the election shall be held in the municipality. R.S.O. 1950, c. 243, s. 78.

Appoint-  
ment of  
places for  
nomination  
and polling,  
deputy  
returning  
officers, etc.

**56.—(1)** The council of every local municipality in which the election is by wards or polling subdivisions shall from time to time appoint,

- (a) the places for holding the nominations for each ward;
- (b) a returning officer to hold the nomination for each ward;
- (c) the places at which polls shall be opened if a poll is required;
- (d) a deputy returning officer and a poll clerk for each polling place.

Election  
officers, how  
appointed in  
cities over  
100,000

(2) In a city having a population of not less than 100,000, the returning officers, deputy returning officers and poll clerks shall be appointed on the recommendation of the clerk, and such appointments shall be made at least one month before polling day, and as far as practicable the deputy returning officers and poll clerks shall be appointed for polling places in the subdivisions in which they reside.

(3) If a poll clerk signifies to the returning officer in writing that he will not act, the returning officer shall appoint another person to act in his place. Poll clerk refusing to act, etc.

(4) If a poll clerk does not attend at the opening of the poll, the deputy returning officer shall appoint another person to act in his place. Appointment of poll clerk by D.R.O.

(5) The council on the recommendation of the clerk may appoint such election assistants, not exceeding one for each polling place, as may be deemed necessary to assist the deputy returning officers and poll clerks in the conduct of the election, and every such assistant shall be authorized in writing to enter, remain and assist in any polling place during any part of the time the poll is open and at the counting of the votes. Election assistants  
R.S.O. 1950, c. 243, s. 79.

**57.** Except as provided in section 492, the clerk shall be the returning officer for the whole municipality and, if a poll is required, the deputy returning officers shall make to him the returns for their respective wards or polling subdivisions. Clerk to be returning officer for whole municipality  
R.S.O. 1950, c. 243, s. 80; 1955, c. 48, s. 11.

**58.**—(1) By-laws may be passed by local municipalities for dividing the municipality or, where the municipality is divided into wards, the wards into two or more polling subdivisions and for establishing one or more polling places in each polling subdivision. Polling subdivisions and places  
R.S.O. 1950, c. 243, s. 81 (1).

(2) One or more polling places shall be provided for each polling subdivision in accordance with the convenience of the electors and, where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be. Polling places to be provided  
R.S.O. 1950, c. 243, s. 81 (2); 1955, c. 48, s. 12; 1958, c. 64, s. 7.

(3) Every polling subdivision shall have well-defined boundaries and shall be formed in the most convenient manner so that the number of electors entitled to vote in each polling place shall as nearly as possible equal but not exceed 450, determined by the last revised assessment roll. Boundaries to be defined

(4) A polling subdivision shall not include territory in more than one electoral district. Polling subdivision to be in one electoral district

(5) Where the clerk finds that the number of electors in a polling subdivision or polling place exceeds 450, he shall notify the council of such fact. Where electors exceed 450

Redivision

(6) Where the number of electors in a polling subdivision or polling place exceeds 450 or where the council is of opinion that the convenience of the electors will be promoted, the council may make a redivision of the polling subdivisions or polling places so that the polling subdivisions and polling places will conform with this section.

When re-  
division to  
take effect

(7) When a polling subdivision or polling place is created or altered after the publication of the voters' lists, such creation or alteration shall not take effect until the next voters' lists are being prepared.

Sudvisions  
to be  
numbered

(8) The polling subdivisions shall be numbered consecutively and, where there is more than one polling place in a polling subdivision, such fact shall be indicated and a copy of the by-law by which they are established certified under the seal of the corporation and the hand of the clerk to be a true copy shall forthwith after the passing thereof be filed by the clerk in the office of the clerk of the peace for the county or district in which the municipality is situate.

Appeal

(9) Any five electors may at any time within two months after such filing appeal in respect of any polling subdivision to the judge of the county or district court of the county or district, who has power to amend the by-law so as to make it conform with the provisions of this section, and the procedure on the appeal shall be the same as on a motion to quash a by-law, except that no recognizance or deposit shall be required.

Election  
not to be  
voided if  
subdivision  
is wrongly  
formed

(10) An election is not irregular or void or voidable for the reason that a polling subdivision that contains more than the prescribed number of electors has not been divided. R.S.O. 1950, c. 243, s. 81 (3-10).

Uniting  
polling sub-  
divisions

**59.** By-laws may be passed by the councils of local municipalities for uniting for any purpose any two adjoining subdivisions and establishing one polling place therefor. R.S.O. 1950, c. 243, s. 82.

Using  
public and  
separate  
schools for  
polling  
places

**60.—(1)** By-laws may be passed by the councils of local municipalities for providing that either, or both, public and separate schoolhouses within the municipality or a public building belonging to or controlled by the corporation and within the municipality shall be used for a polling place, or for polling places, for one or more polling subdivisions and any such schoolhouse or public building may be used, although it is not situated in the polling subdivision or polling subdivisions for which it is used.



(2) Where a schoolhouse is so used, the council shall forth-<sup>Payment therefore</sup> with pay to the board having control of the schoolhouse a sum sufficient to cover any damage done to it and any expense for cleaning or otherwise caused by such use.

(3) No school shall be so used without the consent of the<sup>Consent of school board</sup> board having control of such school.

(4) The board of commissioners of police or the chief con-<sup>Constable to attend each such polling place</sup> stable shall cause one or more constables or clerks, as the case may be, to attend at each polling place in a schoolhouse or public building in which an election is being held there to perform the duties required by this Act of a constable appointed by the returning officer. R.S.O. 1950, c. 243, s. 83.

**61.** In any local municipality where difficulty arises in<sup>Polling places</sup> obtaining a suitable polling place in any polling subdivision, by-laws may be passed by the council of the municipality for providing a polling place for the polling subdivision in an adjoining polling subdivision. 1951, c. 53, s. 7.

**62.** Where a polling place has been appointed for holding<sup>In certain cases clerk may choose polling place</sup> an election, or for taking a vote in a local municipality, and it is afterwards found that the building cannot be obtained, or is unsuitable for the purpose, the clerk may select in lieu of it the nearest suitable building that is available, and he shall post up and keep posted up a notice on the building named in the by-law, and in two other conspicuous places nearby, directing the voters to the place so selected. R.S.O. 1950, c. 243, s. 85.

**63.** The council of a township in which an urban muni-<sup>Place of polling</sup> cipality is situate may fix the place of polling for any adjoining subdivision within the limits of the urban municipality. R.S.O. 1950, c. 243, s. 86.

**64.**—(1) In a local municipality that is not divided into<sup>Returning officer where election not by polling subdivisions</sup> polling subdivisions, the clerk or such person as the council may appoint to act in the absence of the clerk through illness or otherwise shall be the returning officer for the nomination of candidates.

(2) The council shall from time to time appoint the place<sup>Polling place</sup> at which the poll shall be opened if a poll is required. R.S.O. 1950, c. 243, s. 87.

**65.**—(1) Where a by-law to appoint the place for holding<sup>Place for nomination and polling where council fails to fix places</sup> any meeting required to be held for the nomination of candidates is necessary and the council fails to pass it, the meeting shall be held at the place at which the nomination for the next preceding election was held.

Idem

(2) Where the council fails to appoint all or any of the places at which a poll is to be opened if a poll is required, as to such of them as are not appointed, the polls shall be opened at the place or places at which the polling took place at the next preceding election. R.S.O. 1950, c. 243, s. 88.

Refusal or neglect of returning officer or deputy returning officer to perform his duties

**66.**—(1) Where the returning officer for any ward notifies the clerk that he is unable or that he refuses to act or does not attend at the time and place appointed by the clerk to receive his instructions and nomination papers, or where a deputy returning officer does not attend at the time and place at which he is required by the clerk to attend to receive his ballot box, voters' lists and other election papers, the clerk shall appoint another person to act in his place.

When electors may choose returning officer

(2) If at the time and place appointed for holding a nomination the returning officer does not attend to hold the nomination within fifteen minutes after the time appointed or if no returning officer has been appointed, the electors present at the place for holding the nomination may choose from amongst themselves a returning officer to hold the nomination.

Deputy returning officer not attending at poll

(3) If at the time and place appointed for holding the poll the deputy returning officer does not attend within one hour after the time appointed, the clerk shall appoint another person to act in his place and shall furnish him with a ballot box, voters' lists and other election papers.

When poll clerk to act as deputy

(4) In a city having a population of not less than 100,000, a deputy returning officer shall not be appointed unless a poll clerk has not been appointed or if appointed is not present, but the poll clerk shall act as deputy returning officer and he shall appoint some other person to be poll clerk.

Where returning officer or deputy is unable to perform his duties

(5) If, during the polling, the returning officer or the deputy returning officer at a polling place becomes unable, through illness or other cause, to perform his duties, the poll clerk shall act in his place and shall perform all the duties of a returning officer or deputy returning officer, and may appoint some other person to act as poll clerk. R.S.O. 1950, c. 243, s. 89.

Returning officers and deputy returning officers to be conservators of the peace

**67.**—(1) A returning officer and a deputy returning officer from the time he takes the oath of office until the day after the close of the election or of the voting on a by-law shall be a conservator of the peace and has all the powers of a justice of the peace.

Arrest of person disturbing peace

(2) A returning officer, a deputy returning officer or a justice of the peace may arrest or by a verbal order cause to be arrested and placed in the custody of a constable or of any other person a person whom he on reasonable and probable

grounds believes to have contravened clause g of section 130, or who disturbs the peace and good order and may cause such person to be imprisoned under an order signed by him until an hour not later than the closing of the nomination, polling or voting, as the case may be, and all constables and persons present when required shall assist the returning officer, deputy returning officer or justice of the peace in the performance of his duties under this subsection. R.S.O. 1950, c. 243, s. 90.

**68.** A returning officer, a deputy returning officer or a justice of the peace may appoint and swear in as many special constables to assist in the preservation of the peace and order as he may deem necessary, and any person liable to serve as constable and required by a returning officer, a deputy returning officer or a justice to be sworn in as a special constable, if he refuses to be sworn in or to serve, is guilty of an offence and on summary conviction is liable to a fine of \$20. R.S.O. 1950, c. 243, ss. 91, 493.

#### BALLOT BOXES

**69.**—(1) Where a poll is required, the clerk shall procure as many ballot boxes as there are polling subdivisions. Ballot boxes to be furnished

(2) The ballot boxes shall be made of durable material, provided with lock and key, and so constructed that the ballot papers can be deposited therein and cannot be withdrawn without unlocking the box. How made

(3) At least two days before polling day, the clerk shall deliver a ballot box to every deputy returning officer. Delivery to deputy returning officers

(4) The ballot boxes, when returned to the clerk after the election, shall be preserved by him for use at future elections, and he shall have ready for use, at all times, as many ballot boxes as there are polling subdivisions. Clerk to preserve boxes for future elections

(5) If the clerk fails to provide the ballot boxes, he is guilty of an offence and on summary conviction is liable to a fine of \$100 in respect of every ballot box that he fails to provide. Offence

(6) A deputy returning officer who has not been provided with a ballot box within the time prescribed shall forthwith procure one to be made, and he may make a requisition upon the treasurer for payment of the cost of it, and the treasurer shall pay the cost to the deputy returning officer. R.S.O. 1950, c. 243, ss. 92, 493. Deputy returning officers to procure boxes when not supplied

#### BALLOT PAPERS

**70.** Where a poll is required, the clerk shall forthwith cause to be printed a sufficient number of ballot papers for the purposes of the election. R.S.O. 1950, c. 243, s. 93. Ballot papers to be printed



Ballot  
papers,  
where  
election is  
by wards

**71.—(1)** In cities and towns in which the aldermen or councillors are elected by wards, there shall be prepared one set of ballot papers for all the polling subdivisions containing the names of the candidates for mayor, another set for all the polling subdivisions containing the names of the candidates for reeve, or reeve and deputy reeves, and another set for each ward containing the names of the candidates for aldermen or councillors for the ward.

where  
aldermen or  
councillors  
elected by  
general  
vote

(2) In cities and towns where the aldermen or councillors are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballot papers containing the names of the candidates for mayor or mayor and reeve or mayor, reeve and deputy reeves, and another set containing the names of the candidates for aldermen or councillors.

for town-  
ships and  
villages

(3) In villages and townships, there shall be prepared one set of ballot papers containing the names of the candidates for reeve or reeve and deputy reeves and for councillors.

for con-  
trollers, etc.

(4) There shall also be separate sets of ballot papers for controllers and public utility commissioners.

In towns,  
villages and  
townships

(5) In a town, the council may by by-law provide that the ballot papers for mayor, reeve and deputy reeve shall be prepared in separate sets and, in a village or township, the council may by by-law provide that the ballot papers for reeve, deputy reeve and councillors shall be prepared in separate sets.

When  
by-laws to  
be passed

(6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the year than the 1st day of November and remains in force until repealed, and while in force the ballot papers (Form 3, 5 or 6) shall be varied accordingly. R.S.O. 1950, c. 243, s. 94.

Form of  
ballot  
papers

**72.—(1)** The ballot papers shall be according to Form 3, 5 or 6, and shall contain the names of the candidates arranged alphabetically in the order of their surnames or, if there are two or more candidates for the same office with the same surname, in the order of their given names.

Form of  
ballot  
papers  
in certain  
cities

(2) In cities having a population of not less than 200,000, the ballot papers shall be according to Form 4 and shall contain the names of the candidates arranged as set forth in subsection 1.

Power to  
vary

(3) In any municipality, the form of any ballot paper may by by-law be varied by stating in respect of each office the number of candidates for such office for which the voters are entitled to vote. R.S.O. 1950, c. 243, s. 95.

**73.**—(1) In place of using separate ballot papers under this Act, the council of a local municipality may by by-law authorize the use at a municipal election or by-election of composite ballot papers in such form as the by-law prescribes which shall contain the names of the candidates for each office arranged alphabetically in the order of their surnames or, if there are two or more candidates for the same office with the same surname, in the order of their given names. 1955, c. 48, s. 13, *part*; 1960, c. 69, s. 4 (1). Composite  
ballot  
papers  
authorized

(2) A composite ballot may contain,

Contents

(a) the names of candidates for the offices of a council, board of education, school board, public utility commission or other board, commission or body the members of which are required to be elected by the electors of the municipality or any one or more of such offices; and

(b) any municipal question or by-law on which a vote is to be taken.

(3) No elector shall be given a composite ballot paper containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote. 1955, c. 48, s. 13, *part*. Idem

**74.** In place of using ballot papers under this Act, with the approval of the Department, the council of a local municipality may by by-law authorize the use at a municipal election or by-election of voting machines for one or more polling subdivisions. 1955, c. 48, s. 13, *part*. Voting  
machines

#### POLLING PLACES

**75.** Before opening the poll, the clerk shall deliver to every deputy returning officer the ballot papers for use in the polling subdivision for which he has been appointed, and shall furnish him with the materials necessary to enable voters to mark their ballot papers, and such materials shall be kept at the polling place by the deputy returning officer for the use of voters. R.S.O. 1950, c. 243, s. 96. Clerk to  
furnish  
deputy  
returning  
officers with  
ballot  
papers, etc.

**76.** Every polling place shall be furnished with a compartment in which the voters can mark their ballot papers screened from observation and, if it is not provided by the corporation, the deputy returning officer shall furnish it, and the cost of it shall be repaid to him as provided by subsection 6 of section 69. R.S.O. 1950, c. 243, s. 97. Compartment  
for  
marking  
ballots

## DIRECTIONS TO VOTERS

Directions  
to voters to  
be printed

**77.** The clerk shall cause to be printed in conspicuous type a sufficient number of the directions for the guidance of voters (Form 7), for the purposes of election, and shall deliver to every deputy returning officer as many of the printed directions, but not less than five, as the clerk may deem sufficient. R.S.O. 1950, c. 243, s. 98.

Deputy  
returning  
officers to  
placard the  
directions

**78.** Every deputy returning officer, before opening the poll, or immediately after he has received the printed directions from the clerk, if they were not received before opening the poll, shall cause them to be placarded outside the polling place, and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. R.S.O. 1950, c. 243, s. 99.

## VOTERS' LISTS, POLL BOOKS

Proper  
voters' list  
to be used at  
an election  
R.S.O. 1960,  
c. 420

**79.** The proper list of voters to be used at an election is the last municipal voters' list certified under *The Voters' Lists Act* with the supplementary list, if any, under section 81 or the list provided for by section 82. R.S.O. 1950, c. 243, s. 100; 1954, c. 56, s. 8.

For first  
election in  
new municip-  
ality

**80.** For the first election in a new municipality for which there is no assessment roll, the clerk instead of a voters' list shall provide every deputy returning officer with a poll book (Form 8), and the deputy returning officer or the poll clerk shall enter in it in the proper column the name of every person who tenders his vote and, at the request of any candidate or voter, shall note opposite the name of such person the property in respect of which he claims to be entitled to vote. R.S.O. 1950, c. 243, s. 101.

Voters'  
lists on  
formation  
of new cor-  
poration,  
etc.

**81.—(1)** Where the whole or any part of a municipality, or locality without municipal organization, has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory into a town, or a new town or village is erected, and an election takes place before a voters' list including the names of the persons entitled to vote in the municipality annexed or such part of a municipality, locality, territory or for the new town or village is certified, the clerk of the municipality to which the same was added and, in the case of a new town or village, the returning officer shall prepare from the last certified voters' list of the municipality annexed, or of the municipality from which such part of a municipality, locality, territory, town or village was or became detached, a supplementary list of



voters containing the names of and the other particulars relating to the persons who would have been entitled to vote in the municipality annexed and in such part of a municipality, locality or territory if it had not been so detached. 1955, c. 48, s. 14.

(2) The supplementary list shall be signed by the clerk and attested by his declaration, and he shall deliver to every deputy returning officer a copy of so much of such list as relates to his polling subdivision. R.S.O. 1950, c. 243, s. 102 (2). Clerk's duties as to supplementary lists

**82.** In a municipality for which there is an assessment roll, but for which there is no voters' list certified, the clerk shall, before the poll is opened, prepare and deliver to the deputy returning officer for every polling subdivision a list signed by him and attested by his declaration, containing the names, arranged alphabetically, of all persons appearing by the then last revised assessment roll to be entitled to vote in that polling subdivision. R.S.O. 1950, c. 243, s. 103. Voters' list, when clerk to prepare

#### LIST OF DEFAULTERS IN PAYMENT OF TAXES

**83.**—(1) In municipalities, the councils of which have passed by-laws under paragraph 51 of subsection 1 of section 379, the treasurer of each local municipality, if the collector's roll has been returned to him or the collector, if the roll has not been so returned, shall, on or before the day fixed for nomination at the election, prepare and verify by his declaration and deliver to the clerk an alphabetical list of all persons entered on the voters' list whose taxes in respect of land are overdue and unpaid. R.S.O. 1950, c. 243, s. 104 (1); 1955, c. 48, s. 15; 1958, c. 64, s. 8. Preparation of list of defaulters

(2) Where a municipality is divided into polling subdivisions, such a defaulters' list shall be made for each polling subdivision. List to be made for each polling subdivision

(3) The person who prepares the defaulters' list shall furnish to all persons applying for the same certified copies of it and of the declaration, in the same manner as and for the same compensation for which copies of the voters' list are to be furnished. R.S.O. 1950, c. 243, s. 104 (2, 3). Certified copies to be furnished

[NOTE.—See section 40 as to effect of default and payment of taxes before voting.]

**84.**—(1) The clerk, before the poll is opened, shall at a time and place appointed by him deliver to the deputy returning officer for every polling subdivision a list, either printed or written, or partly printed and partly written, certified to be a correct list of voters for the polling subdivision, together Delivery of copies of voters' list, poll book and defaulters' list to D.R.O.

with a blank poll book (Form 8), and also a copy of the proper defaulters' list prepared under section 83 for the polling subdivision.

Copies may be prepared by clerk of municipality or procured from clerk of peace

(2) The list of voters may be prepared by the clerk or may be procured from the clerk of the peace, and in the latter case the clerk of the peace is entitled to 6 cents for every ten voters whose names are on the list. R.S.O. 1950, c. 243, s. 105.

#### CERTIFICATES AS TO THE ASSESSMENT ROLL

Clerk to give certificate of dates of final revision of assessment roll, etc.

**85.**—(1) The clerk, before the poll is opened, shall deliver to every deputy returning officer a certificate (Form 9) of,

(a) the date of the return of the assessment roll upon which the voters' list is based; and

(b) the last day for making complaints to the judge with respect to the voters' list to be used at the election. R.S.O. 1950, c. 243, s. 106 (1); 1951, c. 53, s. 8.

Fee for certificate

(2) The clerk shall also give to any person applying for it a like certificate upon payment of 25 cents.

Offence

(3) For every contravention of subsection 2, the clerk is guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1950, c. 243, ss. 106 (2, 3), 493.

#### IN MUNICIPALITIES WITHOUT POLLING SUBDIVISIONS

In municipalities not divided into polling subdivisions, clerk to perform duties of deputy returning officers

**86.** In municipalities not divided into polling subdivisions, the clerk shall perform the duties that in other cases are performed by deputy returning officers, and shall provide himself with the necessary ballot papers, the materials for marking ballot papers, the printed directions for the guidance of voters, copies of the voters' list, poll book and defaulters' list, and a certificate of the date of the return of the assessment roll, and the last day for making complaints to the judge with respect to the voters' list, and he shall perform the like duties with respect to the whole municipality as are imposed upon a deputy returning officer for a polling subdivision. R.S.O. 1950, c. 243, s. 107; 1952, c. 63, s. 7.

#### WHERE AND HOW OFTEN ELECTORS MAY VOTE

Number of votes that may be given by each elector

**87.**—(1) An elector is entitled to vote,

(a) once only for mayor, controller, reeve, deputy reeve;

(b) where the election is by general vote, once only for as many candidates for any office as there are offices to be filled, and once only for each of them. R.S.O. 1950, c. 243, s. 108 (1); 1954, c. 56, s. 9.

(2) Where the election is by general vote and an elector is <sup>Where</sup> qualified to vote in more than one ward or polling subdivision, <sup>election by</sup> he shall vote only in that in which he resides if qualified to <sup>general vote</sup> vote there or, if not qualified to vote there or if he is not a resident of the municipality, he may elect at which of such wards or polling subdivisions he will vote and shall vote there only.

(3) Where the aldermen or councillors are elected by wards, <sup>Where</sup> an elector if qualified to vote therein may vote in each ward <sup>aldermen,</sup> for as many candidates as there are offices to be filled and <sup>etc., elected</sup> once only for each of them. R.S.O. 1950, c. 243, s. 108 (2, 3).

**88.**—(1) The clerk, at the request of an elector who has <sup>Certificate</sup> been appointed deputy returning officer, poll clerk, special <sup>to entitle</sup> constable or agent of a candidate, for any polling place other <sup>deputy</sup> than the one at which he is entitled to vote, shall give to such <sup>returning</sup> elector a certificate that he is entitled to vote at the polling <sup>officers, poll</sup> place where he is to be stationed during polling day, and the <sup>clerks, and</sup> certificate shall state the property or other qualification in <sup>agents to</sup> respect of which he is entitled to vote. <sup>vote where</sup> <sup>stationed</sup>

(2) On the production of the certificate, such elector has <sup>Right to</sup> the right to vote at the polling place at which he is stationed <sup>vote on pro-</sup> instead of at the polling place at which he would otherwise <sup>duction of</sup> be entitled to vote, and the deputy returning officer shall <sup>certificate</sup> attach the certificate to the voters' list.

(3) The certificate does not entitle the elector to vote at <sup>Certificate</sup> such polling place unless he has been actually engaged as <sup>only to</sup> deputy returning officer, poll clerk, special constable or agent <sup>entitle</sup> during polling day, or to vote for aldermen in cities, or for <sup>officials who</sup> councillors in municipalities divided into wards, except in the <sup>act</sup> ward where he would otherwise be entitled to vote.

(4) If a deputy returning officer votes at the polling place <sup>Who to</sup> for which he has been appointed, the poll clerk or, in his <sup>administer</sup> absence, any elector entitled to be present may administer <sup>oath</sup> to the deputy returning officer the oath required by law to be taken by voters. R.S.O. 1950, c. 243, s. 109.

#### THE POLL

**89.**—(1) Subject to subsection 2, the poll shall be opened <sup>Time for</sup> at every polling place at 9 o'clock in the forenoon and shall be <sup>opening and</sup> kept open until 5 o'clock in the afternoon of the same day. <sup>closing poll</sup>

(2) The council of a municipality may by by-law passed at <sup>Idem</sup> least sixty days before the day of nomination change the time for opening and closing the poll so that it will remain open for not less than eight consecutive hours between 8 o'clock in the forenoon and 9 o'clock in the afternoon and any such by-law remains in force from year to year until repealed.



By-election (3) In the case of a by-election to fill a vacancy in the office of a member of a council, a by-law for the purposes set out in subsection 2 may be passed at least six days before the day of nomination at such by-election.

Vote by ballot (4) The votes shall be given by ballot. R.S.O. 1950, c. 243, s. 110.

Advance poll **90.**—(1) A by-law may be passed by the council of a local municipality for providing advance polls for the purpose of receiving the votes of voters who expect to be absent from the municipality, or confined in a hospital, or of election officials who in carrying out their duties as election officials will be unable to attend the poll at which they are entitled to vote, on the day fixed for polling. 1955, c. 48, s. 17 (1); 1956, c. 50, s. 6.

By-law (2) A by-law passed under subsection 1 remains in force from year to year until repealed, and must be passed at least sixty days before the day fixed for polling.

Time of poll (3) Polls for receiving the votes of such voters shall be held and kept open for such times and on such days as may be provided in the by-law.

Application of Act (4) Except as otherwise provided, all the provisions of this Act as to proceedings prior to the holding of the poll and at the poll, and after the closing of the poll, apply.

Poll book for each ward (5) In a municipality where the election is to be held by wards, there shall be a separate poll book for each ward.

Deputy returning officer (6) In a municipality where the election is by general vote, the clerk or some other person appointed by him shall act as deputy returning officer and, in a municipality where the election is by wards, the clerk may act as deputy returning officer for one or more wards or may appoint one or more persons to act as deputy returning officers for one or more wards, and may also appoint as many poll clerks as there are deputy returning officers, and may fix one or more polling places.

Notice of polls (7) Notice of the times and places at which polls will be opened shall, prior to the day so fixed for holding the poll, be given by the returning officer by posting up notices at each of the polling places so appointed and in conspicuous places in the municipality and, where possible, by advertisement in a newspaper published or circulated in the municipality. 1952, c. 63, s. 8, *part*.

Declaration by voter (8) Every person offering himself as a voter at the polling place before being allowed to vote shall be required by the

deputy returning officer to make one of the following declarations which shall be kept by the deputy returning officer with the other records of the poll:

Polling Place.....

I, ....., declare that I

(a) expect to be absent from the municipality of.....; or

(b) as an election official will be unable to attend the poll at which I am entitled to vote; or

(c) expect to be confined in a hospital, on the day fixed for polling.

Dated at.....

this.....day of

....., 19.....

Witness: .....

Signature of Voter

Deputy Returning Officer .....

Address of Voter .....

1957, c. 76, s. 9.

(9) Every person who signs any such declaration knowing <sup>Offence</sup> that any statement therein is false is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. R.S.O. 1950, c. 243, s. 493; 1952, c. 63, s. 8, *part*.

(10) No person is entitled to vote unless his name appears <sup>Qualifica-</sup> on the last revised voters' list for the municipality. <sup>tion of voter</sup>

(11) The deputy returning officer and every candidate or his <sup>Oath</sup> agent may require that the voter, before being handed a ballot, take the oath to be administered to a voter under this Act.

(12) The poll clerk shall record in the poll book in the column headed "Remarks" after the name of each person who votes under this section a note that he has made the declaration mentioned in subsection 8 and the number of the polling subdivision, if any, <sup>Record of</sup> in which he is entered on the voters' list. <sup>declaration</sup>

(13) At the close of the poll each day, the deputy returning officer and any candidate or agent present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any ballots be deposited in it without breaking the seals. <sup>Fixing of</sup> <sup>seals</sup>

(14) At the close of the poll each day, the deputy returning officer shall forthwith make up and deliver or mail to the returning officer a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the voter is entered on the voters' list, and the returning officer shall, at the request of any candidate, furnish him with a copy of such list. 1952, c. 63, s. 8, *part*. <sup>List of</sup> <sup>persons</sup> <sup>voting</sup>

Noting  
deputy  
returning  
officers'  
lists or  
certificate  
as to voters

(15) Upon receiving from the deputy returning officer the list mentioned in subsection 14, the returning officer shall,

- (a) make an entry in the voters' list to be supplied to each deputy returning officer on polling day opposite the name of each voter whose name appears on such list and whose vote has been received at an advance poll, showing that such voter has polled his vote; or
- (b) make a certificate (Form 11) for each polling subdivision, showing the name and address of each voter listed on the voters' list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on voting day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry in the voters' list supplied to him, opposite the name of each voter whose name appears on the certificate, showing that such voter has polled his vote. 1954, c. 56, s. 10.

Opening  
ballot box  
and counting  
ballots

(16) On the day fixed for holding the general poll at the election, the deputy returning officer at the polling place shall, in the presence of such candidates and their agents as may be present at the hour fixed for the closing of the general poll, open the ballot box, count the votes and perform all the other duties required of a deputy returning officer by this Act with respect to the votes polled under this section. 1952, c. 63, s. 8, *part*.

Application  
of section

(17) This section applies to an election or by-election for a council, board of education, school board, public utility commission or other board, commission or body the members of which are required to be elected by the electors of the municipality and to voting on any by-law and question submitted to the electors under the authority of this or any other general or special Act. 1955, c. 48, s. 17 (3).

Special  
poll for  
soldiers'  
hospitals

**91.—**(1) Where in any municipality there is situate a home, hospital or other institution for the reception, treatment or vocational training of disabled nursing sisters, officers and men who were on active service with the naval or military forces of Great Britain or her allies, the council may by by-law declare any such home, hospital or institution to be a polling place for the purpose of elections and a poll shall be held in each such place and all patients therein who are electors of the municipality are entitled to vote at such poll.

Ballot in  
certain  
cases

(2) When any such patient is bed-ridden or unable to walk, it is lawful for the deputy returning officer and poll clerk to attend upon such patient for the purpose of receiving his ballot. R.S.O. 1950, c. 243, s. 112 (1, 2).



(3) Subsections 4, 5, 6, 10 and 11 of section 90 apply and the clerk of the municipality may cause all things to be made, done and provided for the purpose of holding such poll and ensuring the proper conduct of the election thereat in compliance as nearly as may be with the provisions of this Act respecting elections. R.S.O. 1950, c. 243, s. 112 (3); 1955, c. 48, s. 18.

**92.** The deputy returning officer shall, immediately before opening the poll, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 107. R.S.O. 1950, c. 243, s. 113; 1955, c. 48, s. 19.

**93.—**(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows:

- (a) Except where there is no voters' list, he shall ascertain that the name of such person or a name apparently intended for it is entered on the voters' list for the polling subdivision and is not entered upon the defaulters' list. R.S.O. 1950, c. 243, s. 114 (1), cl. (a).
- (b) He shall record, or cause to be recorded by the poll clerk, in the proper columns of the poll book the name, qualification and residence of such person. R.S.O. 1950, c. 243, s. 114 (1), cl. (b); 1956, c. 50, s. 7.
- (c) Where the vote is objected to by any candidate or his agent, the deputy returning officer shall enter or cause to be entered the objection in the poll book, by writing opposite the name of such person in the proper column the words "*Objected to*", and the name of the candidate by or on behalf of whom the objection was made.
- (d) If such person takes the prescribed oath, the deputy returning officer shall enter or cause to be entered opposite such person's name, in the proper column of the poll book, the word "*Sworn*", or "*Affirmed*", according to the fact.
- (e) Where such person has been required to take the oath and refuses to do so, the deputy returning officer

Application  
of s. 90

Deputy  
returning  
officer to  
show box  
empty to  
persons  
present and  
then lock  
and seal it

Proceedings  
by deputy  
returning  
officer on  
tender of  
vote

Name

Recording

Objection

Oath

Refusal  
to take  
the oath

shall enter or cause to be entered opposite the name of such person, in the proper column of the poll book, the words "*Refused to be sworn*", or "*Refused to Affirm*", according to the fact.

Deputy  
returning  
officer to  
initial  
ballot paper  
and mark  
voters' list

- (f) After the proper entries have been made in the poll book, the deputy returning officer shall place or cause to be placed a check or mark opposite the name of the voter in the voters' list to indicate that he has voted, and shall then put his initials on the back of the ballot paper.

Delivery of  
ballot  
to voter

- (g) The ballot paper shall then be delivered to such person.

Deputy  
returning  
officer to  
explain mode  
of voting

- (h) The deputy returning officer may, and upon request shall, either personally or through the poll clerk explain to the voter, as concisely as possible, the mode of voting. R.S.O. 1950, c. 243, s. 114 (1), cls. (c-h).

Offence

- (2) The vote of a person who has refused to take the oath shall not be received and, if the deputy returning officer receives such vote or causes it to be received, he is guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1950, c. 243, ss. 114 (2), 493.

Voter who  
alleges he  
has been  
imperson-  
ated

- 94.**—(1) If a person representing himself to be a voter applies for a ballot paper after another person has voted as such voter or where an entry has been made on the voters' list in error that such voter has polled his vote, he is entitled to receive a ballot paper and to vote after taking the oath and otherwise establishing his identity to the satisfaction of the deputy returning officer.

Note of  
second  
ballot to be  
entered in  
poll book

- (2) The deputy returning officer shall enter or cause to be entered on the poll book opposite the name of the voter a note of his having voted on a second ballot or of an entry having been made in the voters' list in error that he has polled his vote, as the case may be. 1957, c. 76, s. 10.

Oath, etc.,  
of person  
claiming  
to vote

- 95.**—(1) The only oath to be required of a person claiming to vote shall be according to Form 12.

Voter may  
select any  
form of  
oath

- (2) The voter is entitled to select any one of the forms of oath, whatever may be the description either in the voters' list or assessment roll of the qualification or character in which he is entered upon it.

When and  
how oaths  
are to be  
adminis-  
tered

- (3) The oath may be administered by the returning officer or deputy returning officer if he thinks fit, and shall be administered at the request of any candidate or his agent, and no inquiry shall be made of a voter except with respect to

the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the voters' list, or the assessment roll, as the case may be. R.S.O. 1950, c. 243, s. 115.

**96.** The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for a candidate for the office named in that column. R.S.O. 1950, c. 243, s. 116.

Deputy returning officer to initial names of persons voting

**97.**—(1) Upon receiving the ballot paper, the person receiving it shall,

Marking ballot paper

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper by placing a cross, on the right hand side, opposite the name of a candidate for whom he desires to vote, or at any other place within the division that contains the name of such candidate;
- (b) then fold the ballot paper so as to conceal the names of the candidates, and the marks upon the face of it, and to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer.

(2) The deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates, or the marks made by the voter, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place, and the voter shall forthwith leave the polling place. R.S.O. 1950, c. 243, s. 117.

Duties of D.R.O. on receipt of ballot

**98.** While a voter is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the voter marks his ballot paper. R.S.O. 1950, c. 243, s. 118.

Exclusion from balloting compartment

**99.** A person who has received a ballot paper shall not take, and the deputy returning officer may prevent him from taking it out of the polling place and, if he leaves the polling

Voter not to take his ballot paper from polling place



place without delivering it to the deputy returning officer in the prescribed manner or returns the ballot paper declining to vote, he thereby forfeits his right to vote and the deputy returning officer shall make an entry in the poll book in the column for "*Remarks*" to the effect that such person received a ballot paper, but took it out of the polling place, or returned it, declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot paper and shall preserve it. R.S.O. 1950, c. 243, s. 119.

Proceedings  
in case of  
incapacity  
to mark  
ballot  
paper

**100.**—(1) The deputy returning officer on the application of a voter who is incapacitated by physical cause other than blindness from marking his ballot paper, or who makes a declaration (Form 13) that he is unable to read, or where the voting is on a Saturday that he is of Jewish persuasion and objects on religious grounds to mark his ballot paper in the manner prescribed by section 97, shall,

- (a) in the presence of the poll clerk and the agents of the candidates, cause the vote of such person to be marked on the ballot paper in the manner directed by him, and shall place the ballot paper in the ballot box;
- (b) make an entry opposite the name of the voter in the proper column of the poll book that his vote was marked in pursuance of this section, and of the reason why it was so marked.

Oral dec-  
laration

(2) Where the voter objects on religious grounds to mark his ballot paper, the declaration may be made orally.

Voter in-  
capacitated  
by blindness,  
etc.

(3) The deputy returning officer, on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall require the voter making such application to make a declaration (Form 13) of his incapacity to vote without assistance, and shall thereafter assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the sworn agents of the candidates, or of the sworn electors representing the candidates in the polling place and of no other person, and place such ballot in the ballot box.

Blind  
voter's ballot  
marked by  
friend

(4) The deputy returning officer shall either deal with a blind voter in the same manner as with an illiterate or otherwise incapacitated voter, or, at the request of any blind voter who has made the declaration (Form 13) and is accompanied by a friend, shall permit such friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

(5) Any friend who is permitted to mark the ballot of a blind voter as aforesaid shall first be required to make a declaration (Form 14) that he will keep secret the name of the candidate for whom the ballot of such blind voter is marked by him, and no person shall at any polling place be allowed to act as the friend of more than one blind voter.

(6) The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name the reason why such ballot paper was marked by him or by a friend of the voter.

(7) Where a voter has made the declaration (Form 13) of his inability to read, the deputy returning officer shall complete and subscribe to the certificate (Form 15). R.S.O. 1950, c. 243, s. 120.

**101.** A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot paper, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot paper, and preserve it. R.S.O. 1950, c. 243, s. 121.

**102.** A person who applies for a ballot paper shall be deemed to have tendered his vote, and a person whose ballot paper has been deposited in the ballot box, or who has delivered it to the deputy returning officer or poll clerk, for the purpose of having it deposited in the ballot box, shall be deemed to have voted. R.S.O. 1950, c. 243, s. 122.

**103.** The deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his agent, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. R.S.O. 1950, c. 243, s. 123.

**104.** A candidate is entitled to one agent only in a polling place at any one time. R.S.O. 1950, c. 243, s. 124.

**105.—(1)** No person on the day of the polling shall use or deliver to any other person any card, ticket, leaflet, book, circular or writing soliciting votes for or against any candidate, or by-law, or for an affirmative or negative answer to any question, or having upon it the name of any candidate.

## Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 243, ss. 125, 493.

## Persons inside polling place

**106.** Every person qualified to vote thereat who is inside the polling place at the time fixed for closing the poll is entitled to vote. R.S.O. 1950, c. 243, s. 126.

## PROCEEDINGS AFTER THE CLOSE OF THE POLL

## Counting the votes

**107.** Immediately after the close of the poll, the deputy returning officer shall first place all the cancelled and declined ballot papers in separate packets and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted, and cause a certificate, in the following form: "*I certify that the number of voters who voted at the election in this polling place is (stating the number in words) and that.....was the last person who voted at this polling place*", to be entered in the poll book on the line immediately below the name of the voter who voted last, and the certificate shall be signed by the deputy returning officer, the poll clerk, and any candidate or agent present who desires to sign it; then, in their presence and in full view he shall open the ballot box and count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. R.S.O. 1950, c. 243, s. 127.

## What votes to be rejected

**108.—(1)** In counting the votes, the deputy returning officer shall reject all ballot papers,

- (a) that have not been supplied by him; or
- (b) by which votes have been given for more candidates than are to be elected; or
- (c) upon which there is any writing or mark by which the voter can be identified, or that has been so torn, defaced or otherwise dealt with by the voter that he can thereby be identified,

but no word, letter or marks written or made or omitted to be written or made by the deputy returning officer on a ballot paper avoids it or warrants its rejection.

## Counting votes where ballot paper relates to two or more offices

(2) Where on a ballot paper that contains the names of candidates for more than one office votes are given for more candidates for any office than are to be elected, the ballot is void as regards all the candidates for such office but is good as regards the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected. R.S.O. 1950, c. 243, s. 128.



(3) Where on a composite ballot paper,

Composite  
ballots

- (a) votes are given for more candidates for any office than are to be elected; or
- (b) votes are given for the affirmative and negative on any by-law or question,

the vote is void as regards the candidates for such office or as regards the by-law or question, as the case may be, but does not affect the votes for any other offices, by-laws or questions in respect of which a vote is correctly indicated. 1955, c. 48, s. 20.

**109.**—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper by a candidate or his agent and shall decide the objection subject to review on re-count or in a proceeding questioning the validity of the election.

Objections  
to be noted  
and decided

(2) Each objection shall be numbered and a corresponding number shall be placed on the back of the ballot paper and initialled by the deputy returning officer. R.S.O. 1950, c. 243, s. 129.

Numbering  
objections

**110.**—(1) All the ballot papers except those rejected shall be counted, and an account shall be kept of the number of votes given and allowed for each candidate, and all the ballot papers shall be put into separate packets as follows:

Procedure on  
counting  
ballot papers  
and notes  
and placing  
ballot papers  
into packets

- (a) all the used ballot papers that have not been objected to and have been counted;
- (b) all the used ballot papers that have been objected to, but which have been counted;
- (c) all the rejected ballot papers;
- (d) all the cancelled ballot papers;
- (e) all the ballot papers used but unmarked;
- (f) all the declined ballot papers;
- (g) all the unused ballot papers.

(2) Every packet shall be endorsed so as to indicate its contents, and shall be sealed by the deputy returning officer, and any candidate or agent present may write his name on the packet and may affix to it his seal. R.S.O. 1950, c. 243, s. 130.

Each packet  
to be  
endorsed  
and sealed

**111.**—(1) The deputy returning officer shall make out a statement in duplicate of,

Statement  
of result to  
be made by  
deputy  
returning  
officer

- (a) the number of ballot papers received from the clerk;

- (b) the number of votes given for each candidate and the rejected ballot papers;
- (c) the used ballot papers that have not been objected to and have been counted;
- (d) the ballot papers that have been objected to, but which have been counted by the deputy returning officer;
- (e) the rejected ballot papers;
- (f) the cancelled ballot papers;
- (g) the ballot papers used but unmarked;
- (h) the declined ballot papers;
- (i) the unused ballot papers;
- (j) the number of voters whose ballot papers have been marked by the deputy returning officer under section 100.

Disposal of  
statement

(2) One statement shall be attached to the poll book and the other shall be enclosed in a special packet and delivered to the clerk.

Signing of  
statement

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their agents as are present and desire to sign it.

Certificate  
of result  
of poll

(4) The deputy returning officer shall deliver to such of the candidates or their agents as are present, if requested to do so, a certificate of the number of ballot papers counted for each candidate, and of the rejected ballot papers. R.S.O. 1950, c. 243, s. 131.

Oath of  
poll clerk

**112.** The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe an oath similar to that required by subsection 3 of section 114 to be taken by the deputy returning officer. R.S.O. 1950, c. 243, s. 132.

Poll book,  
etc., to be  
placed in  
ballot box

**113.—**(1) The poll book, the voters' list, the packets containing the ballot papers, and all other documents that served at the election shall be placed in the ballot box, except,

- (a) the duplicate statement;
- (b) the oath of the deputy returning officer, Form 17;
- (c) the oath of the poll clerk, Form 17 or similar oath; and
- (d) the oath of the person, if any, chosen to deliver the ballot box to the clerk, Form 16. R.S.O. 1950, c. 243, s. 133.

(2) Where the documents referred to in subsection 1 are in error placed in the ballot box or where the statement cannot be interpreted by the returning officer, the returning officer may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the returning officer. 1960, c. 69, s. 5.

Opening of  
box where  
documents  
placed in  
box in  
error

**114.**—(1) The deputy returning officer shall then immediately lock and seal the box, and any candidate or agent present may also affix to it his seal and the deputy returning officer shall then forthwith deliver it personally to the clerk or, if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it, and shall on it or on a ticket attached to it write the name of the person to whom the ballot box has been delivered, and shall take a receipt for it, and the poll clerk or person so chosen shall forthwith deliver the ballot box personally to the clerk and shall take and subscribe before him the oath (Form 16).

Delivery of  
ballot box  
to clerk

(2) In cities and towns, the deputy returning officer or, in case of his inability, as mentioned in subsection 1, the poll clerk or the person chosen shall proceed directly from the polling place to the office of the clerk with the ballot box, and there personally on the same day, as soon as possible after leaving the polling place, deliver it to the clerk, and the poll clerk or the person chosen shall take and subscribe before him the oath (Form 16), and the clerk shall remain in his office on the evening of the polling day until all the ballot boxes have been returned to him.

Return of  
ballot boxes,  
etc., in  
cities and  
towns

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the oath (Form 17), and shall personally deliver it or transmit it by registered mail to the clerk. R.S.O. 1950, c. 243, s. 134.

Oath of  
D.R.O.

**115.** The clerk, upon the receipt of a ballot box, shall take every precaution for its safe keeping and for preventing any other person from having access to it, and shall immediately on the receipt of it seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. R.S.O. 1950, c. 243, s. 135.

Duties of  
clerk as to  
ballot box

**116.** A deputy returning officer in a city or town shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any

D.R.O. not  
to take  
ballot box  
to his home



house or place except the office of the clerk. R.S.O. 1950, c. 243, s. 136.

Return by  
D.R.O. when  
election in-  
terrupted

**117.** Where the holding of the election has been interrupted, as mentioned in section 120, the deputy returning officer shall delay making his return to the clerk until the polling has taken place. R.S.O. 1950, c. 243, s. 137.

Clerk to  
cast up  
votes and  
declare what  
candidates  
elected

**118.** The clerk, after he has received the ballot boxes and other documents referred to in section 113, including the duplicate statements of the number of votes given by each polling place, without opening any of the ballot boxes, shall cast up from such duplicate statements the number of votes for each candidate and at the town hall or, if there is no town hall, at some other public place, at noon on the second day following the day on which the polling is held, shall publicly declare to be elected the candidate or candidates having the highest number of votes, and he shall also put up in some conspicuous place a statement under his hand showing the number of votes for each candidate. 1955, c. 48, s. 21.

Tie vote,  
recount  
necessary

**119.**—(1) If, upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, the clerk shall publicly declare the result and put up in a conspicuous place a statement under his hand showing the number of votes for each candidate and shall forthwith notify a judge of the county or district court of the county or district in which the municipality is situate of the result and the judge shall thereupon appoint a time and place to recount the votes cast for such candidates.

Procedure

(2) In such proceedings, sections 121 and 122 apply *mutatis mutandis*.

When clerk  
to have cast-  
ing vote

(3) If the certificate of the result of the recount shows that the candidates still have an equal number of votes, the clerk shall forthwith after receiving the certificate give a vote for one or more of the candidates so as to decide the election. R.S.O. 1950, c. 243, s. 139.

#### ELECTION NOT HELD AT PROPER TIME, ETC.

Election  
not com-  
menced, or  
interrupted  
by reason of  
riot, etc., to  
be resumed

**120.** If, by reason of a riot or other emergency, an election, or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election on the following day at the hour of 9

o'clock in the forenoon, and continue the same from day to day until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eight hours in all. R.S.O. 1950, c. 243, s. 140.

[As to postponement of an election on account of an epidemic or contagious disease, see *The Public Health Act*, R.S.O. 1960, c. 321.]

#### RECOUNT

**121.**—(1) If, within fourteen days after the declaration by the clerk of the result of the election, upon the application of a candidate or voter it is made to appear by affidavit to a judge of the county or district court of the county or district in which the municipality is situate that a deputy returning officer, in counting the votes, has improperly counted or rejected any ballot paper, or made an incorrect statement of the number of ballots cast for any candidate, or has improperly added up the votes, and if within that time the applicant has given security for the costs in connection with the recount or final addition of the candidate declared elected of such nature and in such amount as may be fixed by the judge, or if at any time within four weeks after such declaration in a local municipality the council has by resolution declared that a recount or re-addition is desirable in the public interest, the judge shall appoint a time and place to re-count or re-add the votes cast at the election. R.S.O. 1950, c. 243, s. 141 (1); 1955, c. 48, s. 22 (1).

(2) In all cases of a recount or re-addition of the ballots cast for candidates elected by general vote in a local municipality divided into wards, the judge may order that the recount or re-addition shall be conducted separately in each ward, and for that purpose may appoint for any ward, as his deputy, another judge or a barrister of at least ten years standing at the bar of Ontario to re-count or re-add the votes cast at the election in such ward and a time and place for such recount or re-addition to be held, and every such deputy shall, for all the purposes of the recount or re-addition and in respect to the ward for which he is appointed, have the powers and perform the duties of the judge as hereinafter set out in this section. R.S.O. 1950, c. 243, s. 141 (2); 1955, c. 48, s. 22 (2).

(3) At least two days notice in writing of the time and place appointed shall be given to the candidates and to the clerk, and the clerk or an assistant clerk appointed for the purpose shall attend the recount or re-addition with the ballot boxes and all documents relating to the election.

Who may  
attend

(4) The judge, the clerk, the assistant clerk and each candidate and his agent appointed to attend the recount or re-addition, but no other person, except with the sanction of the judge is entitled to be present at the recount.

Which bal-  
lots to be  
re-added or  
re-counted

(5) The recount shall be of the ballots cast respectively for the candidate declared elected when one only is to be elected or in other cases of the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the ballots cast for him to be re-counted or re-added.

Making re-  
addition or  
recount

(6) At the time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge shall make such final addition from the statements contained in the ballot boxes returned by the deputy returning officers, or re-count all the ballot papers received by the clerk from the several deputy returning officers and the number of votes counted at the election and shall for the purpose of the recount open the sealed packets containing the used ballot papers that were not objected to and were counted, the ballot papers that were objected to but which were counted, the rejected ballot papers, the cancelled ballot papers, the ballot papers that were used but were unmarked, the declined ballot papers and the unused ballot papers.

Proceedings  
to be con-  
tinuous

(7) The judge shall, as far as practicable, proceed continuously, allowing only time for refreshment and excluding, except so far as he and the persons present agree, the hours between 6 o'clock in the afternoon and 9 o'clock in the succeeding forenoon, and during the excluded time the judge shall place the ballot papers and other documents relating to the election close under his own seal and the seal of such of the persons present as desire to affix their seals, and shall otherwise take all necessary precautions for their security.

Procedure  
as at close  
of poll

(8) Subject to subsection 9, the judge shall proceed according to the provisions for the counting of the ballot papers and the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Evidence  
may be  
taken

(9) If for any reason it appears desirable to do so, the judge upon the application of any party to the proceeding may hear such evidence as he may deem necessary for the purpose of making a full and proper recount of the ballot papers.

Judge's  
certificate  
of result

(10) Upon the completion of the recount, the judge shall seal up all the ballot papers in their separate packets and upon the completion of a re-addition he shall seal up the original



statements in their respective packets, and shall forthwith certify the result of the recount or re-addition to the clerk.

(11) Upon the result of the recount or readdition being certified to him, the clerk shall declare elected the candidate so certified as having the highest number of votes, and such declaration shall be deemed for all purposes to have been substituted for the prior declaration made under section 118, if it is different from such prior declaration. Clerk's declaration of result

(12) Nothing in this section affects any remedy that any person may have under the provisions hereinafter contained by proceedings in the nature of *quo warranto* or otherwise. Other remedies not affected  
R.S.O. 1950, c. 243, s. 141 (3-12).

**122.**—(1) The costs of the recount are in the discretion of the judge who may order by whom, to whom and in what manner the costs shall be paid. Costs

(2) The judge may in his discretion award costs of the recount or re-addition to or against any candidate and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court. Amount or scale of costs

(3) Where costs are directed to be paid by the applicant, the money deposited as security for costs shall be paid out to the party entitled to such costs, so far as necessary. Deposit, disposal

(4) Payment of the costs may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them. Recovery of costs

(5) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him to recount the votes. R.S.O. 1950, c. 243, s. 142. Expenses of judge attending at recount

#### SECRECY OF PROCEEDINGS

**123.**—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting. Maintaining secrecy of proceedings

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how a voter is about to vote or has voted. Interference with voters

(3) No person shall communicate any information obtained at a polling place as to how a voter at such polling place is about to vote or has voted. R.S.O. 1950, c. 243, s. 143. Communicating information as to how voter has voted

Inducing  
voter to  
display  
ballot after  
marking

**124.** No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot paper after he has marked it, so as to make known to any person how he has voted. R.S.O. 1950, c. 243, s. 144.

Voter not  
to display  
marked  
ballot

**125.** Subject to section 100, a voter shall not show his ballot paper, when marked, to any person so as to make known how he voted. R.S.O. 1950, c. 243, s. 145.

Oath of  
secrecy

**126.** Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy (Form 18). R.S.O. 1950, c. 243, s. 146.

Proceedings  
where  
officers  
aware of  
violation  
of secrecy

**127.**—(1) If a returning officer, deputy returning officer or poll clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated, he shall forthwith communicate the particulars to the Crown attorney.

Crown  
attorney to  
prosecute

(2) The Crown attorney on receiving such information from any person shall forthwith inquire into the matter and, if proper, prosecute the offender. R.S.O. 1950, c. 243, s. 147.

No one  
compellable  
to disclose  
his vote

**128.** No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. R.S.O. 1950, c. 243, s. 148.

#### GENERAL

Returning  
officers, etc.,  
wilfully  
falsifying  
or altering  
list of  
voters to  
incur  
penalty

**129.** Every returning officer, deputy returning officer, or other person whose duty it is to deliver poll books or who has the custody of a voters' list or poll book, who wilfully makes any alteration or insertion in or wilfully omits anything from or in any way wilfully falsifies such voters' list or poll book, is guilty of an offence and on summary conviction is liable to a fine of \$2,000 and is also liable to imprisonment for a term of not more than one year. R.S.O. 1950, c. 243, ss. 149, 493.

Offences  
relating  
to ballot  
papers

**130.** Every person who,

- (a) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon; or
- (b) without due authority supplies a ballot paper to any person; or

- (c) fraudulently places in a ballot box a paper other than the ballot paper that he is authorized by law to place therein; or
- (d) fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer; or
- (e) fraudulently takes a ballot paper out of the polling place; or
- (f) without authority destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purposes of an election; or
- (g) applies for a ballot paper in the name of another person whether the name be that of a person living or dead or of a fictitious person, or having voted applies at the same election for a ballot paper in his own name or votes oftener than he is entitled to; or
- (h) being a deputy returning officer, contravenes section 116, or fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (i) with fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or
- (j) being employed to print the ballot papers for an election, with fraudulent intent, prints more ballot papers than he is authorized to print; or
- (k) attempts to commit or aids, abets, counsels or procures the commission of any offence mentioned in this section,

is guilty of an offence and if, a returning officer, deputy returning officer or other officer engaged in the election, on summary conviction is liable to imprisonment for a term of not more than two years, and, in the case of any other person, to imprisonment for a term of not more than six months. R.S.O. 1950, c. 243, ss. 150, 493.

**131.**—(1) Every person who wilfully and maliciously destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a warrant for holding an election, a poll book, voters' list, certificate, affidavit or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act or any of them,

Persons unlawfully destroying, etc., documents relating to elections, etc.



shall incur a penalty of \$2,000, and shall also be liable to imprisonment for a term of not more than one year.

Abettors  
punishable

(2) Every person who aids, abets, counsels or procures the commission of a contravention of subsection 1 shall incur the like penalty and be subject to the like imprisonment.

Recovery  
of penalty

(3) The pecuniary penalty is recoverable by action at the suit of Her Majesty, and the imprisonment may be directed by the court in which the action is brought. R.S.O. 1950, c. 243, s. 151.

D.R.O.  
omitting  
to initial  
ballots

**132.**—(1) Every deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purposes of an election is guilty of an offence and on summary conviction is liable to a fine of \$10 in respect of every such ballot paper.

D.R.O. or  
poll clerk  
neglecting  
duties

(2) A deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 107 to 115 is guilty of an offence and, for each refusal or neglect, on summary conviction is liable to a fine of \$200. R.S.O. 1950, c. 243, ss. 152, 493.

Wilfully  
miscounting  
ballots, etc.

**133.** Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll is guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1950, c. 243, ss. 153, 493.

Penalty for  
violating  
secrecy

**134.** Every person who acts in contravention of sections 123 to 125 is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than six months. R.S.O. 1950, c. 243, ss. 154, 493.

Money  
penalty for  
offences

**135.** Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person who may be aggrieved thereby the sum of \$400. R.S.O. 1950, c. 243, s. 155.

#### MISCELLANEOUS PROVISIONS

Candidate  
may under-  
take duties  
of an agent

**136.** A candidate may undertake the duties that his agent might undertake, or he may assist his agent in the performance of such duties, and may be present at any place at which his agent is authorized to be present, but no candidate shall be present at the marking of a ballot paper under section 100 and no candidate shall be present in a polling place at the counting of the votes if his agent is in the polling place. R.S.O. 1950, c. 243, s. 156; 1951, c. 53, s. 9.

**137.** Except where otherwise provided, any oath required to be taken in connection with an election may be taken before the clerk of the municipality, a returning officer or a deputy returning officer, as well as before any other person by whom under *The Interpretation Act* an oath may be administered. R.S.O. 1950, c. 243, s. 157.

Who may administer oaths re election  
R.S.O. 1960, c. 191

**138.—(1)** The clerk shall retain in his possession for six weeks all the ballot papers, and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a declaration that they witnessed the destruction of them.

Ballot papers, how disposed of

(2) The declaration shall be made before the head of the municipality and filed in the office of the clerk. R.S.O. 1950, c. 243, s. 158.

Declaration

(3) Subject to subsection 1, the clerk shall retain in his possession all oaths, statements of the vote and other documents relating to an election until the successors to the persons elected at such election have taken office, and shall then destroy them. 1959, c. 62, s. 5.

Disposal of documents relating to election

**139.—(1)** No person shall be allowed to inspect any ballot paper in the custody of the clerk except under the order of a judge or an officer having jurisdiction to inquire as to the validity of the election.

Ballot papers to be inspected only by order of a judge

(2) The order may be made on the judge or officer being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence in relation to ballot papers, or of taking proceedings for contesting the election or return.

Grounds for granting order

(3) The order may be made subject to such conditions as the judge or officer may deem proper. R.S.O. 1950, c. 243, s. 159.

Order may be subject to conditions

**140.** Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballot papers so produced is evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1950, c. 243, s. 160.

Production of documents and endorsements on ballot papers for certain purposes

**141.** Where in this Part expressions are used, requiring or authorizing any act or thing to be done, or implying that any act or thing is to be done in the presence of the agents of the

Expressions referring to agents

Non-attendance of agents

candidate, they shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of an agent at such time and place, if it is otherwise duly done, does not invalidate the act or thing done. R.S.O. 1950, c. 243, s. 161.

When election not to be declared invalid

**142.** No election is or shall be declared to be invalid,

- (a) for non-compliance with the provisions of this Act as to the taking of the poll or anything preliminary thereto or as to the counting of the votes; or
- (b) by reason of mistake in the use of the prescribed forms; or
- (c) by reason of any mistake or irregularity in the proceedings at or in relation to the election,

if it appears to the tribunal by which the validity of the election or any proceeding in relation to it is to be determined that the election was conducted in accordance with the principles laid down in this Act, and it does not appear that such non-compliance, mistake or irregularity affected the result of the election. R.S.O. 1950, c. 243, s. 162.

Expenses incurred by officers to be repaid to them

**143.** The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, and for the transmission of packets, and reasonable fees and allowances for services rendered under this Part, shall be paid to the clerk by the treasurer, and shall be paid by the clerk to the persons entitled thereto. R.S.O. 1950, c. 243, s. 163.

#### VACANCIES IN COUNCIL

Seat to become vacant by crime, insolvency, absence, etc.

**144.** The seat of a member of a council becomes vacant if he,

- (a) is undergoing imprisonment under sentence for a criminal offence; or
- (b) becomes bankrupt or insolvent within the meaning of any bankruptcy or insolvency Act in force in Ontario; or
- (c) is in close custody under *The Fraudulent Debtors Arrest Act* or is discharged from close custody under section 51 of that Act; or

R.S.O. 1960, c. 155



(d) assigns his property for the benefit of his creditors;  
or

(e) absents himself from the meetings of the council for three successive months without being authorized so to do by a resolution of the council entered upon its minutes; or

(f) files his resignation with the clerk of the municipality as provided in subsection 2 of section 35 or subsection 6 of section 148 for the purpose of becoming a candidate for council in some other office; or

(g) is elected to fill a vacancy in the office of mayor, reeve or deputy reeve; or

(h) is elected to fill a vacancy in the board of control,

and the council shall forthwith declare the seat to be vacant. R.S.O. 1950, c. 243, s. 164; 1953, c. 70, s. 4; 1958, c. 64, s. 9.

**145.** Except in the cases provided for by section 144, if a member of a council forfeits his seat or his right to it or becomes disqualified to hold it and does not forthwith resign his seat, proceedings may be taken under sections 151 to 170 to declare it vacant. R.S.O. 1950, c. 243, s. 165.

Proceedings if disqualified member fails to resign

**146.** A member of a council, with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council but he shall not vote on a motion as to his own resignation. R.S.O. 1950, c. 243, s. 166.

Resignation of member with consent of council

**147.—**(1) The warden of a county may resign his office either by verbal intimation to the county council when in session or by letter to the clerk when the council is not in session.

Resignation of warden

(2) Where from any cause a vacancy occurs in the office of warden when the council is not in session, the clerk shall forthwith notify the members of the vacancy and, if required in writing so to do by a majority of them, he shall call a special meeting of the council to fill the vacancy. R.S.O. 1950, c. 243, s. 167.

Vacancy in office of warden, how filled

**148.—**(1) Subject to sections 149 and 150, a new election shall be held forthwith where,

When new election to be held

(a) a person elected has neglected or refused to accept office or to make the prescribed declarations within the prescribed time; or

(b) a vacancy, except in the office of controller, occurs from any cause.

Warrant  
for new  
election

(2) Where a new election is to be held, the head of the council or, if he is absent or unable to act or there is a vacancy in the office, the clerk or, if they are both absent or unable to act or both offices are vacant, one of the members of the council shall forthwith issue a warrant under his hand for the holding of the new election.

Returning  
and deputy  
returning  
officers,  
nomination  
and polling

(3) The returning officer and the deputy returning officers appointed to hold the next preceding election shall be the returning officer and the deputy returning officers to hold the new election, and the nomination shall be held and the polling shall take place at the respective places at which the nomination was held and the polling took place at such last election, unless the council appoints other persons to hold the election and other places at which the nomination shall be held and the polling take place, which the council may do.

Procedure  
where new  
election  
before first  
meeting of  
council

(4) Where a new election becomes necessary before the first meeting of the council in the year for which it is elected, the duties which by subsection 2 are to be performed by the head, clerk or a member of the council shall be performed by the head, clerk or a member of the council of the next preceding year.

Time for  
holding  
election

(5) The new election shall be held at the latest within fifteen days after the receipt of the warrant by the person to whom it is directed, and the person issuing the warrant shall appoint a time for the nomination of candidates and for the polling if a poll is required, and the election shall be conducted in like manner as an annual election. R.S.O. 1950, c. 243, s. 168 (1-5).

Resignation

(6) Subject to sections 149 and 150, no person who is a member of the council and whose term of office has at least two months to run after the day on which the nomination meeting for the new election is to be held is eligible to be nominated for membership in the council in any other office unless he has before the time of the opening of the nomination meeting filed his resignation from the office that he then holds with the clerk of the municipality, and the clerk shall not place on the ballot paper the name of any such person as a candidate who fails to file such resignation within the time aforesaid. 1953, c. 70, s. 5.

Term of  
office of  
members  
elected

(7) The person elected shall hold office for the remainder of the term for which the person whose place he is elected to fill was elected.

(8) Notwithstanding that a new election becomes necessary, meetings of the council may be held if a majority of the full number of the council is present. R.S.O. 1950, c. 243, c. 168 (6, 7). Majority of council may hold meeting

**149.**—(1) Where a vacancy occurs in the office of alderman or councillor where aldermen or councillors are elected by general vote, the unsuccessful candidate who received the highest number of votes at the next preceding election is entitled to the office upon making the prescribed declarations within the prescribed time and, if he fails to do so or disclaims the office, one of the candidates following in regular order according to the number of votes received shall, as hereinafter provided, become entitled to the office on making such declarations within the prescribed time. R.S.O. 1950, c. 243, s. 169 (1); 1958, c. 64, s. 10 (1). Vacancy in office of alderman or councillor where election is by general vote

(2) Where the number of votes cast for two or more of such candidates is equal, their order of succession shall be determined by the amounts for which they are respectively rated upon the last revised assessment roll, the candidate having the largest assessment having the priority. Candidate having largest assessment to have priority in case of a tie

(3) The clerk shall immediately after the vacancy occurs give notice in writing to the candidate who is first in succession that he is entitled to such vacant office if he makes the prescribed declarations within one week after the giving of the notice and that, if he fails to make the declarations within that time, he shall be deemed to have disclaimed the office. Notice of vacancy

(4) If a candidate fails to make the prescribed declarations within the prescribed time, or disclaims the office, the clerk shall forthwith give notice in writing to the candidate next in succession in the same terms as the notice to the first candidate, until the vacant office has been filled or the list of candidates entitled to take it is exhausted. Failure to take prescribed declarations

(5) The notice may be served personally or may be sent by registered mail addressed to the candidate, and a record of the service or of the mailing and of the address shall be preserved by the clerk. R.S.O. 1950, c. 243, s. 169 (2-5). Service of notice on candidate

(6) If all the aldermen or councillors were elected by acclamation, or if no candidate takes the vacant office under the preceding provisions of this section, the council shall forthwith elect a person to fill the vacancy for the remainder of the term of the member whose seat has become vacant. R.S.O. 1950, c. 243, s. 169 (6); 1958, c. 64, s. 10 (2). When council to elect person to fill vacancy

**150.**—(1) Where the office of mayor, reeve or deputy reeve becomes vacant in any year and an election to fill the vacancy has not been ordered in a judicial proceeding, the Vacancy in office of mayor, reeve or deputy reeve



council shall elect one of their number to fill the office for the remainder of the term. R.S.O. 1950, c. 243, s. 170 (1); 1958, c. 64, s. 11 (1).

When  
vacancy  
need not  
be filled

(2) Where a vacancy occurs in the office of councillor after the 1st day of November in any year or after the 1st day of October where a by-law has been passed under section 44 and an election has not been ordered in a judicial proceeding, it is not necessary that the vacancy be filled if the council so directs. R.S.O. 1950, c. 243, s. 170 (3).

Vacancy in  
office of  
alderman or  
councillor  
where  
election is  
not by  
general vote

(3) Where a vacancy occurs in the office of alderman or councillor where aldermen or councillors are not elected by general vote and an election has not been ordered in a judicial proceeding, the council, at a meeting called for that purpose, shall elect a person to fill the vacancy for the unexpired term of the member whose seat has become vacant. R.S.O. 1950, c. 243, s. 170 (4); 1958, c. 64, s. 11 (3).

Vacancies  
not re-  
quiring a  
by-election

(4) Where the seat of a member of council is rendered vacant by reason of the filing of the resignation mentioned in subsection 2 of section 35, the vacancy shall not be filled in the manner provided in section 148 or 149, but the seat shall remain vacant until the next ensuing election when it shall be filled in the manner provided by this Act or any special Act that may be applicable, except that the person then elected to fill the vacancy shall hold office only for the remainder of the term for which the person who vacated the office was elected to such office. R.S.O. 1950, c. 243, s. 170 (5); 1960, c. 69, s. 6.

## PART IV

### PROCEEDINGS TO DECLARE SEAT VACANT

#### PROCEDURE

Interpre-  
tation

**151.** In this Part,

- (a) "judge", unless the court is referred to by name, includes a judge of the Supreme Court and a judge of a county or district court;
- (b) "master" means Master of the Supreme Court and includes Assistant Master. R.S.O. 1950, c. 243, s. 171.

Who may  
try validity  
of election  
or right  
to deputy  
reeve

**152.**—(1) The validity of the election of a member of a council or his right to hold his seat, or the right of a local municipality to a deputy reeve, may be tried and determined by a judge of the Supreme Court, by the master, or by a judge of the county or district court of the county or district in which the municipality is situate.

(2) Where the right of a municipality to a deputy reeve is <sup>Relator</sup> contested, any municipal elector in the county or, where the validity of the election is contested, any candidate at the election or an elector who gave or tendered his vote at it, or where the election was by acclamation, or the right to sit is contested on the ground that the member has become disqualified or has forfeited his seat since his election, an elector entitled to vote at the election may be the relator. R.S.O. 1950, c. 243, s. 172.

**153.**—(1) If within six weeks after an election or one <sup>Time within</sup> month after the acceptance of office by a member of a council <sup>which pro-</sup> a person entitled to be a relator shows by affidavit reasonable <sup>ceedings to</sup> ground for supposing that the election was not legal, or was <sup>be insti-</sup> not conducted according to law, or that the person declared <sup>tuted and</sup> elected was not duly elected, or for contesting the validity of <sup>security</sup> the election, or if within six weeks after the facts come to the <sup>and proof</sup> knowledge of a person entitled to be a relator he shows by <sup>required</sup> affidavit reasonable ground for supposing that a member of a council has forfeited his seat or become disqualified since his election, the judge or the master, as the case may be, shall give his fiat authorizing the relator, upon entering into a recognizance as hereinafter provided and the same being allowed as sufficient, to serve a notice of motion to determine the matter.

(2) The recognizance shall be entered into before the judge <sup>Recog-</sup> or master granting the fiat or before a commissioner for taking <sup>nizance</sup> affidavits by the relator in the sum of \$200 and by two sureties, to be allowed as sufficient by the judge or master upon affidavit of justification, each in the sum of \$100, and shall be conditioned to prosecute the motion with effect and to pay to the person against whom it is made any costs that may be adjudged to him against the relator.

(3) When the recognizance has been allowed as sufficient, <sup>Allowance</sup> the judge or master by whom it is allowed shall note upon it <sup>of recog-</sup> and upon the fiat allowing service of the notice of motion the <sup>nizance</sup> words "*Recognizance allowed*" and shall initial the same.

(4) Where the proceedings are taken before a judge of the <sup>Proceedings,</sup> Supreme Court or before the master, they shall be entitled <sup>how to</sup> in the Supreme Court and, where they are taken before a <sup>be entitled</sup> judge of a county or district court, they shall be entitled in that court. R.S.O. 1950, c. 243, s. 173.

**154.** The relator in his notice of motion shall set forth his <sup>Contents</sup> name in full, his occupation and place of residence, and the <sup>of notice</sup> interest that he has in the election, whether as candidate or <sup>of motion</sup> as an elector, and shall state specifically under distinct heads all the grounds of objection to the validity of the election

complained of, and in favour of the validity of the election of himself or of any other person where the relator claims that he or that such person was duly elected, or the grounds of forfeiture or disqualification, as the case may be. R.S.O. 1950, c. 243, s. 174.

Affidavits,  
etc., to be  
filed

**155.** Before serving the notice of motion, the relator shall file all the affidavits and material upon which he intends to move, except where oral evidence is to be taken, and in that case he shall name in the notice the witnesses whom he proposes to examine. R.S.O. 1950, c. 243, s. 175.

Service of  
notice of  
motion

**156.** The notice of motion shall be served within two weeks from the date of the fiat, unless upon a motion to allow substituted service the judge or master otherwise orders, and not less than seven clear days before the day on which the motion is returnable, and shall be served personally unless the person to be served avoids personal service, in which case an order may be made for substituted service. R.S.O. 1950, c. 243, s. 176.

Where  
relator  
claims that  
he or an-  
other was  
elected

**157.** Where the relator alleges that he or some other person was duly elected, the motion shall be to try the validity of the election complained of and of the alleged election of the relator or other person. R.S.O. 1950, c. 243, s. 177.

One motion  
against  
several  
persons

**158.** Where the grounds of objection apply to two or more persons elected or sitting as members of a council, the relator may proceed by one motion against all of them. R.S.O. 1950, c. 243, s. 178.

Hearing of  
motion

**159.** On the hearing of the motion, the relator shall not be allowed to object to the election of the person complained of or to support the election of himself or of any person alleged to have been duly elected or to attack the right of any member to sit on any ground not specified in the notice of motion; but the judge or the master may entertain any substantial ground of objection to or in support of the validity of the election of either or any of the parties that may appear in evidence before him. R.S.O. 1950, c. 243, s. 179.

Who to hear  
motions  
when more  
than one

**160.** Where more motions than one are made to try the validity of the election, or the right to sit of the same person, all of them shall be made returnable and, unless otherwise directed by a judge of the Supreme Court, shall be heard and determined by the judge or master before whom the motion, notice of which was first served, is returnable, and one order upon all or a separate order upon one or more of them may be made, as he may deem proper. R.S.O. 1950, c. 243, s. 180.



**161.** The judge or master may require the clerk of any municipality to produce before him or to forward under seal to the clerk of the county or district court for the purpose of production such assessment rolls, collector's rolls, ballot papers, books, voters' and other lists, and other records of the election and papers in his hands connected with or relating to it as the judge or master may deem proper. R.S.O. 1950, c. 243, s. 181.

Requiring clerk to attend with rolls, voters' lists, etc.

**162.** Where the motion is returnable before a judge of the Supreme Court, he may direct that the evidence to be used on the hearing of the motion be taken orally in the presence of counsel for or after notice to all parties interested before a special examiner or a judge of a county or district court, who shall return the evidence so taken to the proper officer of the Supreme Court. R.S.O. 1950, c. 243, s. 182.

Taking of evidence to be used on motion.

**163.**—(1) The judge or master, at any stage of the proceedings, may,

Adding parties, etc.

(a) add the returning officer or any deputy returning officer or other persons as a party to the proceedings; and

(b) allow any person entitled to be a relator to intervene and prosecute, or to defend, and may grant a reasonable time for that purpose.

(2) An intervening party is liable for or entitled to costs like any other party to the proceedings. R.S.O. 1950, c. 243, s. 183.

Costs

**164.**—(1) The judge or master shall, in a summary manner, without formal pleadings, hear and determine the questions raised by or upon the motion and, subject to subsection 2, may inquire into the facts on affidavit, by oral testimony, or by an issue framed by him and sent to be tried by a jury in any court named by him, or by one or more of those means.

Mode of trial

(2) Where a question is raised as to whether the candidate or any voter has been guilty of any contravention of sections 178 to 180, affidavit evidence shall not be used to prove the offence, but it shall be proved by oral evidence taken before the judge or before a special examiner or a judge of a county or district court, upon an order of reference to him for that purpose by the judge of the Supreme Court, if the motion is returnable before a judge of the Supreme Court, or before the master or the judge of the county or district court if the motion is returnable before him. R.S.O. 1950, c. 243, s. 184 (1, 2).

Evidence of corrupt practice to be taken orally

Striking  
off votes

(3) Where the seat is claimed for any person, if a candidate is proved to have been guilty, himself or by any person on his behalf, of bribery or of a corrupt practice with respect to a voter who voted at the election, there shall be struck off the number of votes given for such candidate one vote for every such voter. R.S.O. 1950, c. 243, s. 184 (3); 1957, c. 76, s. 11.

If election  
invalid,  
order for  
removal  
of person  
not duly  
elected, etc.

**165.**—(1) Where the election complained of is adjudged to be invalid, the order shall provide that the person found not to have been duly elected be removed from the office and, if it is determined that any other person was duly elected, that he be admitted forthwith to the office.

Order for  
new election

(2) Where it is determined that no other person was duly elected, or that a person duly elected has become disqualified or has forfeited his seat, the order shall provide for the removal from office of such last-mentioned person and, except as provided by section 149, for the holding of a new election. R.S.O. 1950, c. 243, s. 185.

Order for  
new elec-  
tion to be  
directed to  
clerk or  
sheriff

**166.** Where the election of all the members of a council is adjudged to be invalid, or where it is determined that all of them have become disqualified or have forfeited their seats, the order for their removal, and for the election of new members in their places or for the admission of others adjudged to be legally elected, and for an election to fill the remaining seats in the council, shall be directed to the clerk of the municipality or, where there is no clerk, to the sheriff of the county or district in which the municipality is situate, who has all the powers for causing the election to be held that a municipal council or any member or officer of it has in order to fill a vacancy in it. R.S.O. 1950, c. 243, s. 186.

Where  
election  
invalid

**167.**—(1) Where an election is adjudged to be invalid owing to the improper refusal of the returning officer or of a deputy returning officer to receive a ballot paper tendered by or to give a ballot paper to an elector, or owing to such officer having put into the ballot box a ballot paper that was not lawfully received from an elector, the judge or master may order that the costs of the proceedings to unseat the person declared elected, or any part of them, be paid by such returning officer or deputy returning officer.

Right of  
action  
against  
officers  
preserved

(2) Nothing in this section affects any right of action against the returning officer or deputy returning officer or relieves him from any penalty to which he may be liable under this Act. R.S.O. 1950, c. 243, s. 187.

Order

**168.**—(1) After the adjudication, an order shall be drawn up, stating concisely the ground and effect of the decision.

(2) The order may be at any time amended by the judge <sup>Amendment of order</sup> or master in any matter of form, and has the same force and effect as a writ of mandamus formerly had in the like case. R.S.O. 1950, c. 243, s. 188.

**169.** The judge or master forthwith after rendering his <sup>Judgment to be returned to proper officer of court</sup> decision shall return the same with all things had before him touching the proceeding to the proper officer of the court, there to remain of record as a judgment of the court, and the judgment may be enforced for the costs awarded by execution and in other respects in the same manner as an order of mandamus. R.S.O. 1950, c. 243, s. 189.

**170.**—(1) The decision of a judge of the Supreme Court <sup>Appeals from master or county judge</sup> is final, but an appeal lies from the decision or order of the master or of a judge of a county or district court to a judge of the Supreme Court whose decision is final.

(2) The practice and procedure on and in relation to the <sup>Procedure on appeal</sup> appeal shall be the same, as nearly as may be, as in the case of an appeal from a decision of the master in an action or proceeding in the Supreme Court. R.S.O. 1950, c. 243, s. 190.

**171.**—(1) A candidate elected who is found to have been <sup>Disqualification of candidate guilty of corrupt practice</sup> guilty of bribery, or of a corrupt practice, forfeits his seat, and is ineligible as a candidate at any election for two years thereafter.

(2) The judge or master shall report to the clerk of the <sup>Report to be made to clerk</sup> municipality in which the offence was committed the name of every candidate who has been so found guilty, and the clerk shall enter his name in a book to be kept for that purpose. R.S.O. 1950, c. 243, s. 191.

#### DISCLAIMER

**172.** Any person elected may at any time after the election, <sup>Disclaimer before complaint</sup> and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

*"I, A.B., hereby disclaim all right to the office of  
..... for the ..... of  
....., in the county (or  
district) of....., and all defence of any right I  
may have to the same.*

*Dated ..... day of ....., 19.....  
A.B."*

R.S.O. 1950, c. 243, s. 192.



When  
defendant  
may dis-  
claim

**173.** A person whose election is complained of, unless it is complained of on the ground of bribery or corrupt practices on his part, or a person whose seat is attacked on the ground that he has become disqualified or has forfeited his seat, may, within one week after service on him of the notice of motion, transmit by registered mail, or deliver, if the proceedings are in the Supreme Court, to the Registrar of the Supreme Court of Ontario, at Osgoode Hall, Toronto, or if the proceedings are in a county or district court to the judge of that court, and to the relator or his solicitor, a disclaimer signed by him to the following effect:

*"I, A.B., upon whom a notice of motion, in the nature of a quo warranto, has been served for the purpose of contesting my right to the office of.....  
for the ..... of ....., in the county (or district) of ....., hereby disclaim the office, and all defence of any right I may have to the same.*

*Dated..... day of ....., 19.....  
A.B."*

R.S.O. 1950, c. 243, s. 193.

Duplicate of  
disclaimer  
to be  
delivered  
to clerk

**174.** A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council. R.S.O. 1950, c. 243, s. 194.

Disclaimer  
to operate  
as resigna-  
tion

**175.—(1)** A disclaimer in accordance with section 172 or 173 operates as a resignation.

Cost

**(2)** A disclaimer in accordance with section 172 relieves the person making it from all liability for costs.

When costs  
not to be  
awarded

**(3)** Costs shall not be awarded against a person disclaiming under section 173, unless he consented to his nomination or accepted the office. R.S.O. 1950, c. 243, s. 195.

#### RULES OF PRACTICE

Rules Com-  
mittee to  
make rules,  
etc.

**176.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules regulating the practice and procedure in relation to proceedings under this Part, including the costs of and incidental to them, and as to matters not provided for in this Part, or by rules of court, the practice and procedure of the Supreme Court shall be applicable. R.S.O. 1950, c. 243, s. 196.

**177.** Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, whether or not the seat is claimed by or on behalf of the relator or any other person, and proceedings to have the right of a person to sit in a council determined shall be had and taken under the provisions of this Part and not by *quo warranto* proceedings or by an action in any court. R.S.O. 1950, c. 243, s. 197.

Procedure substituted for *quo warranto* proceedings

## PART V

### BRIBERY AND CORRUPT PRACTICES

**178.—**(1) Every person who,

Bribery:

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or
- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or
- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any voter at an election; or
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any voter at an election; or
- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that

bribing voter or procuring bribery by money

by gift or offer or promise of employment

to induce anyone to procure return of candidate or endeavour to procure

receiving bribe to procure return of candidate

advancing money to be spent in corrupt practices

such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or

applying  
for money  
or employ-  
ment in  
considera-  
tion of  
voting

- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate or to his agent for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or

receiving  
money,  
office, etc.,  
for having  
voted

- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or

receiving  
money cor-  
ruptly after  
election

- (h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or

giving or  
promising  
office to  
candidate  
to stand or  
withdraw

- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

is guilty of bribery, is disqualified from voting at any election for two years, and on summary conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both. R.S.O. 1950, c. 243, ss. 198 (1), 493.

Personal  
expenses of  
candidate

- (2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good



faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act. R.S.O. 1950, c. 243, s. 198 (2).

**179.—**(1) A candidate who himself or by any other person on his behalf and every other person who, Conveying voters to poll

(a) hires or promises to pay or pays for a conveyance to carry a voter to or near or from or on the way to or from a polling place; or

(b) pays the travelling or other expenses of a voter in going to or returning from a polling place,

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter other than the hirer to or near or from or on the way to or from a polling place is guilty of a corrupt practice and on summary conviction is liable to a fine of \$100, and, if a voter, is disqualified from voting at the election; but this subsection does not apply to the carrying of voters to the poll in a conveyance used by the candidate personally on polling day.

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to or near or from or on the way to or from a polling place, and whether Furnishing transportation to voters passes or tickets or the like are or are not supplied, is guilty of a corrupt practice and on summary conviction is liable to a fine of \$100, and, if a voter, is disqualified from voting at the election. R.S.O. 1950, c. 243, ss. 199 (1, 2), 493.

(3) Except as provided in subsection 1, nothing in this Act renders it unlawful for any person to provide his own private vehicles for the purpose of taking voters to and from the poll free of charge. Exception as to private vehicles

(4) For the purposes of this section, "conveyance" includes a horse, team, carriage, cab, vehicle, boat or vessel. R.S.O. 1950, c. 243, s. 199 (3, 4). Interpretation

**180.—**(1) Every person who, directly or indirectly, himself or by any other person on his behalf, uses or threatens to use force, violence or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation upon or against a voter in order to induce or compel him to vote or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise Undue influence

of the franchise of a voter, or thereby compels, induces or prevails upon a voter to vote or refrain from voting, is guilty of a corrupt practice and is disqualified from voting for two years and on summary conviction is liable to a fine of \$200 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1950, c. 243, ss. 200 (1), 493.

Pretence,  
that ballot  
not secret

(2) It is a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. R.S.O. 1950, c. 243, s. 200 (2).

Posting of  
provisions  
as to corrupt  
practices

**181.** The clerk shall furnish every deputy returning officer with at least two copies of sections 178 to 180, and the deputy returning officer shall post them in conspicuous places at the polling place. R.S.O. 1950, c. 243, s. 201.

Witnesses  
not excused  
from  
answering  
on ground  
of privilege,  
etc.

**182.—**(1) No person is excused from answering any question put to him in an action or proceeding touching or concerning an election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege or on the ground that the answer will tend to criminate him or subject him to any penalty under this Act.

Answers of  
witness not  
to be used  
against him  
if judge  
gives cer-  
tificate

(2) No answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate him or subject him to any penalty under this Act, shall be used in any proceeding thereunder against such person, if the judge or officer before whom he is examined gives to the witness a certificate that he claimed the right to be excused on either of such grounds, and made full and true answer to the satisfaction of the judge. R.S.O. 1950, c. 243, s. 202.

#### WHEN NO PENALTY RECOVERABLE

When  
penalty for  
corrupt  
practice  
not to be  
recoverable

**183.** No pecuniary penalty is recoverable for bribery or a corrupt practice if it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the offence; but this provision does not apply if the judge before whom the person claiming the benefit of it is charged certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence and that he was in fact the principal offender. R.S.O. 1950, c. 243, s. 203.

## PART VI

## MEETINGS OF MUNICIPAL COUNCILS

## FIRST MEETING OF COUNCIL

**184.**—(1) The first meeting of the council of a local municipality shall be held on the second Monday in January at 11 o'clock in the forenoon or at such hour as may be fixed by by-law, or on such day prior to the second Monday in January and at such hour as may be fixed by by-law.

(2) The first meeting of the council of a county shall be held on the third Tuesday in January at 2 o'clock in the afternoon or at such hour as may be fixed by by-law, or on such day prior to the third Tuesday in January and at such hour as may be fixed by by-law.

(3) No business shall be proceeded with at the first meeting until after the declarations of office have been made by all the members who present themselves for that purpose.

(4) A council shall be deemed to be organized within the meaning of this Act when the declarations of office have been made by a majority of the members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations.  
R.S.O. 1950, c. 243, s. 204.

**185.** A member of a county council shall not take his seat until he has filed with the clerk of the county council a certificate (Form 19) under the hand of the clerk of the municipality for which he was elected and the seal of the corporation.  
R.S.O. 1950, c. 243, s. 205.

**186.**—(1) In each year at the first meeting of a county council at which a majority of all the members is present, they shall organize as a council and elect one of the members to be warden.

(2) The clerk shall preside or, if there is no clerk, the members present shall select a member to preside, and the person so elected may vote as a member.

(3) Subject to subsection 4 and to section 197, the warden shall be elected in the manner provided by resolution of the council passed prior to the election.

(4) In case of an equality of votes, the reeve or, in his absence, the deputy reeve of the municipality which for the preceding year had the largest equalized assessment shall have a second or casting vote. R.S.O. 1950, c. 243, s. 206.



## PLACE OF MEETING

Place of  
first meeting  
of county  
council

**187.** The first meeting of a county council shall be held at the county hall if there is one and, if there is none, at the court house. R.S.O. 1950, c. 243, s. 207.

Subsequent  
meetings

**188.** The subsequent meetings of the county council and all meetings of every other council shall be held at such place as the council from time to time appoints. R.S.O. 1950, c. 243, s. 208.

Location  
of offices,  
county

**189.**—(1) The council of a county in which an urban municipality lies may hold its meetings, keep its public offices and transact all the business of the corporation and of its officers and servants within such municipality and may acquire or rent and hold such real estate therein and erect such buildings thereon as may be convenient for such purpose.

township

(2) The council of a township has the like power in respect of an adjacent urban municipality or township in the same county. R.S.O. 1950, c. 243, s. 209.

Ordinary  
meetings to  
be open

**190.**—(1) The ordinary meetings of every council shall be open, and no person shall be excluded therefrom except for improper conduct.

Exclusion  
of certain  
persons

(2) The head or other presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1950, c. 243, s. 210.

Quorum

**191.**—(1) A majority of the whole number of members required to constitute a council is necessary to form a quorum.

Where  
council  
consists  
of five  
members

(2) Where a council consists of only five members, the concurrent votes of at least three of them is necessary to carry any resolution or other measure. R.S.O. 1950, c. 243, s. 211.

Head of  
council to  
preside

**192.**—(1) The head of the council shall preside at all meetings of the council.

Special  
meeting

(2) The head of the council may at any time summon a special meeting, and upon receipt of the petition of the majority of the members of the council the clerk shall summon a special meeting for the purpose and at the time mentioned in the petition. R.S.O. 1950, c. 243, s. 212.

Place of  
special  
meeting

**193.** If there is no by-law or resolution fixing the place of meeting, a special meeting shall be held at the place where the then last meeting was held, and a special meeting may be

either open or closed as in the opinion of the council, expressed by resolution in writing, the public interest requires. R.S.O. 1950, c. 243, s. 213.

**194.** In the absence of the head of the council, or if his office is vacant, or if he refuses to act, the council may, from among the members, appoint a presiding officer who, during such absence or vacancy or refusal to act, has all the powers of the head of the council. R.S.O. 1950, c. 243, s. 214.

Appoint-  
ment of  
presiding  
officer in  
absence of  
head

**195.** If the person who ought to preside at any meeting does not attend within fifteen minutes after the hour appointed, the members present may appoint a presiding officer from among themselves, and he has the same authority as the absent person would have had if present. R.S.O. 1950, c. 243, s. 215.

Casual  
absence of  
presiding  
officer

**196.** The head of the council, or the presiding officer, except where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions, and, except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1950, c. 243, s. 216.

Head or  
presiding  
officer may  
vote;  
equality of  
votes

**197.**—(1) Where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it.

Voting to  
be open  
and to be  
recorded

(2) No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect. R.S.O. 1950, c. 243, s. 217.

No vote  
by ballot

**198.** No member of a council shall vote on any by-law appointing him to any office in the gift of the council or fixing or providing his remuneration for any service to the corporation, but this does not apply to allowances for attendance at meetings of the council or its committees. R.S.O. 1950, c. 243, s. 218.

Prohibition  
as to mem-  
ber voting  
to appoint  
himself to  
office

**199.** A council may adjourn its meetings from time to time. R.S.O. 1950, c. 243, s. 219.

Adjourn-  
ment

**200.** The council of a county may by by-law provide that a member who in council has an additional vote by virtue of subsection 2 of section 26 shall as a member of any committee have an additional vote therein. R.S.O. 1950, c. 243, s. 220.

Voting of  
county  
councillors  
in com-  
mittee

## PART VII

## BOARDS OF CONTROL

In cities of  
not less than  
100,000

**201.** In cities having a population of not less than 100,000, there shall be a board of control consisting of the mayor and four controllers to be elected by general vote. R.S.O. 1950, c. 243, s. 221.

In cities  
between  
45,000 and  
100,000

**202.**—(1) In cities having a population of less than 100,000 but more than 45,000, the council may, with the assent of the municipal electors, pass a by-law providing that there shall be a board of control consisting of the mayor and four controllers to be elected by general vote. R.S.O. 1950, c. 243, s. 222 (1).

Repeal of  
by-law

(2) No such by-law shall be repealed without the assent of the municipal electors, nor until at least five annual elections or three biennial elections, as the case may be, have been held under it, and no repealing by-law shall be passed later in the year than the 1st day of November. R.S.O. 1950, c. 243, s. 222 (2); 1958, c. 64, s. 12.

Salaries of  
members

**203.**—(1) The council of a city having a board of control may by by-law fix the salaries of the members of the board.

Idem

(2) Where the population of a city is less than 100,000, the salary shall not exceed for each member of the board the sum of \$2,500 per annum.

Idem

(3) Where the population of a city exceeds 100,000 but is less than 150,000, the salary shall not exceed for each member of the board the sum of \$3,500 per annum.

Idem

(4) Where the population of a city exceeds 150,000 but is less than 200,000, the salary shall not exceed for each member of the board the sum of \$4,500 per annum.

Idem

(5) Where the population of a city exceeds 200,000 but is less than 300,000, the salary shall not exceed for each member of the board the sum of \$6,000 per annum.

Idem

(6) Where the population of a city exceeds 300,000, the salary shall not exceed for each member of the board the sum of \$8,500 per annum. 1959, c. 62, s. 6.

Presiding  
officer to  
act in  
absence of  
mayor

**204.** During the absence of the mayor or if there is a vacancy in the office, the person appointed as presiding officer of the council shall act as a member of the board. R.S.O. 1950, c. 243, s. 224.



**205.**—(1) Three members of a board of control is a Quorum quorum, and the mayor shall preside at the meetings of the board and, in his absence, the members shall appoint one of their number to preside. <sup>mayor to preside</sup>

(2) If a vacancy occurs in the office of controller, the council, at a meeting called for that purpose, shall elect a person to fill the vacancy for the unexpired term of the member whose seat has become vacant. R.S.O. 1950, c. 243, s. 225. <sup>Filling vacancies</sup>

**206.**—(1) It is the duty of the board of control, <sup>Duties of board:</sup>

- (a) to prepare estimates of the proposed expenditure of the year and certify them to the council for its consideration; <sup>to prepare estimates</sup>
- (b) to prepare specifications for and award all contracts and for that purpose to call for all tenders for works, material, and supplies, implements, machinery, or other goods or property required and that may lawfully be purchased for the use of the corporation, and to report its action to the council at its next meeting; <sup>to award contracts</sup>
- (c) to inspect and report to the council monthly or oftener upon all municipal works being carried on or in progress; <sup>to inspect municipal works</sup>
- (d) to nominate to the council all heads of departments and sub-departments in case of a vacancy and, after a favourable report by the head of the department, any other officer of the corporation required to be appointed by by-law or resolution of the council, and any other permanent officers, clerks or assistants, and to recommend the salaries of all officers and clerks; <sup>to nominate officers of corporation</sup>
- (e) to dismiss or suspend any head of a department and forthwith to report such dismissal or suspension to the council. <sup>to dismiss or suspend</sup>

(2) The council shall not appropriate or expend, nor shall any officer thereof expend or direct the expenditure of any sum not provided for by the estimates or by a special or supplementary estimate certified by the board to the council, without a two-thirds vote of the council authorizing such appropriation or expenditure, but this prohibition does not extend to the payment of any debenture or other debt or liability of the corporation. <sup>Appropriation and expenditure</sup>

(3) When opening tenders, the board shall require the presence of the head of the department or sub-department with which the subject-matter of them is connected and, when requisite, the presence of the city solicitor. <sup>Head of department to be present when tenders are opened</sup>

Discussion  
as to  
tenders

(4) The head of such department or sub-department may take part in any discussion at the board relating to the tenders.

Reversal  
by council  
of action  
of board

(5) The council shall not without a two-thirds vote reverse or vary the action of the board in respect of the tenders, when the effect of such vote would be to increase the cost of the work or to award the contract to a tender other than the one to whom the board has awarded it.

Appoint-  
ment of  
head of  
department  
on nomina-  
tion of  
board

(6) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed or selected by the council in the absence of the nomination of the board as provided by clause *d* of subsection 1, without a two-thirds vote.

Reinstatement  
of  
dismissed  
head

(7) Where the head of a department has been dismissed by the board, he shall not be re-appointed or re-instated by the council without a two-thirds vote.

Controlling  
appointment  
and duties of  
subordinate  
officers

(8) In the absence of a by-law of the council prescribing the mode of appointing, engaging or employing any officers, clerks, assistants, employees, servants and workmen not included in clauses *d* and *e* of subsection 1, the board may direct by whom and in what manner they shall be appointed, engaged or employed.

Submission  
of by-laws,  
etc.

(9) The board may submit proposed by-laws to the council.

Amalgama-  
tion of de-  
partments

(10) The board, where in its opinion it is desirable, may amalgamate departments or sub-departments.

Secretary  
of board

(11) The board may appoint a secretary or clerk who shall keep minutes of its proceedings, prepare its reports and perform such other duties as may be assigned to him by the board or by the mayor or the council.

Other duties  
assigned by  
council

(12) The council may by by-law or resolution assign to the board such other duties as the council may deem proper.

Copies of  
minutes,  
when to be  
furnished  
to council

(13) The board, when so required by resolution of the council, and upon one week's notice thereof, shall furnish to the council copies of the minutes of its proceedings and any other information in its possession that the council may require.

Referring  
matter back  
for recon-  
sideration

(14) The council may refer back to the board any report, nomination, question or matter for reconsideration.

Recording  
votes on  
action of  
board

(15) Where it is sought in council to reverse, set aside or vary the action of the board, or where a two-thirds vote is required, the vote by yeas and nays shall be recorded in the minutes of the council.

School  
boards to  
send in  
estimates

(16) The public, high and separate school boards, the board of education, the board of commissioners of police and the public library board and every other board, whose esti-

mates are to be provided for, shall furnish their annual estimates to the board on or before the 1st day of March in each year.

(17) Clause *d* of subsection 1 does not apply to a member of the fire department, except the head of it, or to an assessor, except the assessment commissioner, or to a representative of the council upon the board of a harbour trust, or of a corporation on the board of which the council is entitled to elect a representative, or to a member of the court of revision. Certain officers not to be nominated by board

(18) Nothing in this section deprives the head of a department of the power that he possessed on the 7th day of April, 1896, under any by-law or otherwise, to dismiss any subordinate officer, clerk or employee. Powers of head of department before 7th April, 1896

(19) Notwithstanding any other provision in this Act, the duties assigned to the board shall be discharged exclusively by the board, except in the case mentioned in subsection 9. Exclusive rights of board  
R.S.O. 1950, c. 243, s. 226.

**207.**—(1) In cities having a population of 45,000 or less, the council may, with the assent of the electors, pass a by-law providing that there shall be a board of control consisting of the mayor and two controllers to be elected by general vote. Board of control in cities of 45,000 or less

(2) No person may be elected as a controller unless he is a person who is qualified to be elected as an alderman. Qualification of members

(3) A by-law passed under subsection 1 shall be passed not later than the 1st day of November in any year and shall take effect for the year next following that in which it is passed, and no such by-law shall be repealed without the assent of the electors, nor until at least six years have elapsed from the time when it first took effect, and no repealing by-law shall be passed later than the 1st day of November in any year. By-law establishing board

(4) The members of the board of control established under this section shall hold office for the term of one year and until their respective successors are elected. Term of office of members

(5) If any vacancy occurs in the office of a controller, other than the mayor, the vacancy shall be filled by a new election, and the person elected to fill the vacancy shall hold office for the unexpired term of office of his predecessor; provided that, where the vacancy in the office of controller occurs within three months of the time when his term of office would have expired, it is not necessary to fill the vacancy. Vacancies

(6) The members of a board of control established under this section, other than the mayor, shall serve without salary. Travelling expenses, etc.



or remuneration, but they are entitled to be reimbursed for any reasonable travelling or other expenses necessarily incurred and paid by them in the performance of their powers and duties.

Absence of  
or vacancy  
in office of  
mayor

(7) During the absence of the mayor, or if there is a vacancy in the office, the person appointed as presiding officer of the council shall act as a member of the board.

Quorum

(8) Two members of the board form a quorum and the mayor, if present, shall preside at all meetings.

Duties of  
board

(9) It is the duty of a board of control established under this section,

(a) to prepare the yearly estimates provided for in section 297 and to certify them to the council for its consideration;

(b) to administer the revenues and expenditures of the corporation so as to ensure the receipt and application thereof as provided by statute and by the yearly estimates adopted by the council, and to prevent any appropriation of the revenues and the making of any expenditure otherwise than as so provided or as provided by any supplementary estimates adopted by the council;

(c) to administer such other of the affairs of the corporation as may from time to time be provided by by-law passed by a two-thirds vote of all the members of the council.

Appropri-  
ation and  
expenditure

(10) The council shall not appropriate or expend nor shall any officer of the corporation appropriate or expend or direct the appropriation or expenditure of any sum not provided for by the yearly estimates or by a supplementary estimate certified by the board to the council without a two-thirds vote of all the members of the council authorizing such appropriation or expenditure.

Payment of  
obligations

(11) Nothing in subsections 9 and 10 extends to prohibit the payment of any obligation, debt or other liability to which by law the corporation is committed.

By-laws

(12) Except by a vote of three-fourths of all the members of the council, no by-law for any work or undertaking that will involve the issue of debentures of the corporation to meet the cost thereof or the borrowing of moneys therefor shall finally be passed by the council until it is certified to the council by the board; provided that nothing herein prevents

any such by-law being passed by the council without such certificate if the council is by law required to pass the by-law.

(13) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed, selected or dismissed by the council in the absence of the nomination of the board except by a two-thirds vote of all the members of the council. Clerks, appointment and dismissal

(14) Subsections 9, 10, 11, 13, 14, 15 and 19 of section 206 apply to this section. R.S.O. 1950, c. 243, s. 227. Application of certain provisions of s. 206

**208.**—(1) Notwithstanding any general or special Act, in townships having a population of more than 45,000, the council may pass a by-law providing that there shall be an executive committee consisting of, Executive committee in townships

(a) the head of council; and

(b) where,

(i) the deputy reeve is elected at large, the deputy reeve, or

(ii) there is more than one deputy reeve, a deputy reeve to be elected to the committee by council; and

(c) one councillor to be elected to the committee by council or, where there is no deputy reeve, two councillors to be elected to the committee by council; and

(d) where there are more than fifteen members of council, one additional member of council to be elected to the committee by council.

(2) A by-law passed under subsection 1 shall be passed not later than the 1st day of November in any year and shall take effect when the council is organized following the next municipal election after the by-law is passed and no such by-law shall be repealed until at least six years have elapsed from the time it first took effect, and no repealing by-law shall be passed later than the 1st day of November in any year. By-law establishing executive committee, effective date

(3) The members of the executive committee elected to the committee by council shall hold office for one year and until their respective successors are elected. Term of office

(4) If any vacancy occurs in the office of a member elected to the executive committee by council, the vacancy shall be filled by election by council in accordance with subsection 1, and the person elected to fill the vacancy shall hold office for the unexpired term of office of his predecessor. Vacancies

Travelling  
expenses,  
etc.

(5) The members of an executive committee are entitled to be reimbursed for any reasonable travelling or other expenses necessarily incurred and paid by them in the performance of their powers and duties.

Absence or  
vacancy in  
office of head  
of council

(6) During the absence of the head of council or if there is a vacancy in the office, the person appointed as presiding officer of the council shall act as a member of the executive committee.

Quorum

(7) Two members of the executive committee form a quorum and the head of council, if present, shall preside at all meetings.

Application  
of ss. 206,  
207

(8) Subsections 9, 10, 11, 13, 14, 15 and 19 of section 206 and subsections 9, 10, 11, 12 and 13 of section 207 apply to this section as if the executive committee were acting in the place of a board of control.

Amendment  
or repeal  
of by-law

(9) Except by a vote of three-fourths of all the members of the council, no by-law passed under subsection 1 shall be amended or repealed. 1960, c. 69, s. 7, *part*.

Salaries of  
members of  
executive  
committee

**209.** The council of any township having an executive committee may by by-law fix the salaries of the members of the committee, other than the head of council, and the salaries so fixed together with the annual allowance paid for being a member of the council under subsection 1 of section 406 or the total daily remuneration for attendance at meetings of the council and of its committees under subsection 1 of section 405 shall not exceed in the total,

- (a) where the population of a township is less than 100,000, a sum not exceeding \$2,500 per annum;
- (b) where the population of a township is 100,000 or more but less than 150,000, a sum not exceeding \$3,500 per annum;
- (c) where the population of a township is 150,000 or more but less than 200,000, a sum not exceeding \$4,500 per annum;
- (d) where the population of a township is 200,000 or more but less than 300,000, a sum not exceeding \$6,000 per annum; and
- (e) where the population of a township is 300,000 or more, a sum not exceeding \$8,500 per annum. 1960, c. 69, s. 7, *part*.



## PART VIII

## OFFICERS OF MUNICIPAL CORPORATIONS

## THE HEAD

**210.**—(1) The warden of a county, the mayor of a city or town and the reeve of a village or township is the head of the council and the chief executive officer of the corporation. Who to be head of council

(2) When the head of the council is absent from the municipality or absent through illness or his office is vacant, the council may by resolution appoint one of its members to act in his place and stead and, while so acting, such member has and may exercise all the rights, powers and authority of the head of the council. Acting head of council R.S.O. 1950, c. 243, s. 228.

(3) The council of any municipality may by by-law appoint a member of the council to act from time to time in the place and stead of the head of the council when the head of the council is absent from the municipality or absent through illness or his office is vacant and, while so acting, such member has and may exercise all the rights, powers and authority of the head of the council. Idem 1958, c. 64, s. 13.

**211.** It is the duty of the head of the council,

Duties of head of council

- (a) to be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed;
- (b) to oversee the conduct of all subordinate officers in the government of it and, as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished; and
- (c) to communicate to the council from time to time such information and recommend to it such measures as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the municipality. R.S.O. 1950, c. 243, s. 229.

**212.** The head of the council may be paid such annual or other remuneration as the council may determine. R.S.O. 1950, c. 243, s. 230. Remuneration of head

**213.** The mayor of a city or town may call out the *posse comitatus* to enforce the law within the municipality under the same circumstances in which the sheriff of a county may now by law do so. Mayor may call out posse comitatus R.S.O. 1950, c. 243, s. 231.

Substitute  
for head of  
council as  
*ex officio*  
member of  
boards, etc.

**214.** The council of any municipality may by by-law, passed with the written consent of the head of the council, appoint a member of the council to act in the place of the head of the council on any board, commission or other body of which the head of the council is a member *ex officio* under any general or special Act, except a board of commissioners of police. R.S.O. 1950, c. 243, s. 232.

#### THE CLERK

Appoint-  
ment of  
clerk, and  
his duties

**215.**—(1) The council shall appoint a clerk, whose duty it is,

- (a) to truly record in a book, without note or comment, all resolutions, decisions and other proceedings of the council;
- (b) if required by any member present, to record the name and vote of every member voting on any matter or question;
- (c) to keep the books, records and accounts of the council;
- (d) to preserve and file all accounts acted upon by the council;
- (e) to keep in his office or in the place appointed for that purpose the originals of all by-laws and of all minutes of the proceedings of the council;
- (f) to perform such other duties as may be assigned to him by council.

Deputy  
clerk

(2) The council may appoint a deputy clerk who shall have all the powers and duties of the clerk under this and every other Act.

Acting  
clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties through illness or otherwise, the council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk under this and every other Act. R.S.O. 1950, c. 243, s. 233.

Inspection  
of records,  
books, etc.,  
in possession  
of clerk

**216.**—(1) Except as otherwise provided in any Act, any person, at all reasonable hours, may inspect any records, books, accounts and documents in the possession or under the control of the clerk, except inter-departmental correspondence and reports of officials of any department or of solicitors for the corporation made to council, board of control or any committee of council, and the clerk within a reasonable time shall furnish copies of them or extracts therefrom certified under his hand to any applicant on payment at the rate of

10 cents for every 100 words or such other rate as the council may fix. 1958, c. 64, s. 14.

(2) The clerk shall keep an index box in which he shall enter the number and date of, Index of restricted area by-laws, etc.

(a) every subsisting by-law heretofore passed under section 30 of *The Planning Act* or a predecessor of that section; R.S.O. 1960, c. 296

(b) every by-law hereafter passed under section 30 of *The Planning Act*;

(c) every other subsisting by-law, and every other by-law hereafter passed, that affects land but does not directly affect the title to land. 1954, c. 56, s. 11.

(3) A copy of any record, book or document in the possession or under the control of the clerk purporting to be certified under his hand may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. R.S.O. 1950, c. 243, s. 234 (2); 1956, c. 50, s. 8 (2). Copies certified by clerk to be receivable in evidence

**217.**—(1) The clerk of every municipality shall in each year within the time prescribed by the Department make a return to the Department on forms provided by it of such information and statistics with respect to the financial affairs, accounts and transactions of the municipality as the Department may prescribe, and every such return shall be transmitted by registered mail. Clerks' returns to department

(2) For every contravention of this section, the clerk is guilty of an offence and on summary conviction is liable to a fine of not more than \$40. Offence

(3) The Department shall cause to be prepared annually a tabulated statement of the returns which shall be laid before the Assembly. R.S.O. 1950, c. 243, ss. 235, 493. Returns by Department

#### THE TREASURER

**218.**—(1) The council shall appoint a treasurer. Treasurer

(2) The council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer under this and every other Act. Deputy treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties through illness or otherwise, the council may appoint an acting treasurer *pro tempore* who Acting treasurer



shall have all the powers and duties of the treasurer under this and every other Act. R.S.O. 1950, c. 243, s. 236

Appoint-  
ment of  
county  
treasurer  
*pro tem*

**219.**—(1) In case of the death of the treasurer of a county, the warden may, by warrant under his hand, appoint for such special purpose as he may deem necessary a treasurer *pro tempore*, who shall hold office until the next meeting of the council, and all acts authorized by the warrant that are performed by him are as valid and binding as if performed by a treasurer.

Security to  
be given

(2) The warden shall, by the warrant, direct that security within the meaning of subsection 2 of section 234 shall be given by the treasurer *pro tempore* for the faithful performance of his duties and for duly accounting for and paying over all money that comes into his hands, and before entering upon his duties he shall give such security, but he shall not interfere with the books, vouchers or accounts of the deceased treasurer until a proper audit of them has been made. R.S.O. 1950, c. 243, s. 237.

To receive  
and take  
care of and  
disburse  
money, etc.

**220.**—(1) The treasurer shall receive and safely keep all money of the corporation, and shall pay out the same to such persons and in such manner as the laws of Ontario and the by-laws or resolutions of the council direct, and every cheque issued by the treasurer shall be signed by the treasurer and by some other person designated for the purpose by by-law or resolution of the council and such other person before signing a cheque shall satisfy himself that the issue thereof is authorized. R.S.O. 1950, c. 243, s. 238 (1).

Persons  
authorized  
to sign  
cheques

(2) Notwithstanding subsection 1,

- (a) the council of a local municipality having a population of less than 5,000 and the council of a county may provide that cheques issued by the treasurer may be signed by the treasurer only; and
- (b) the council of any other municipality may designate one or more persons to sign cheques in lieu of the treasurer.

Methods of  
signing  
cheques

(3) The council of any municipality may provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques. 1957, c. 76, s. 12.

Petty cash  
fund

(4) The council of a municipality may by by-law provide that the treasurer may establish and maintain a petty cash fund of an amount of money sufficient to make change and to

pay small accounts, subject to such terms and conditions as the by-law may provide. 1953, c. 70, s. 6.

(5) Except where otherwise expressly provided by this Act, a member of the council shall not receive any money from the treasurer for any work or service performed or to be performed. When member of council may be paid for work

(6) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the council, unless another disposition of it is expressly provided for by statute. His liability limited  
R.S.O. 1950, c. 243, s. 238 (3, 4).

**221.** Subject to subsection 4 of section 220, the treasurer shall, Bank accounts, etc.

- (a) open an account or accounts in the name of the municipality in such of the chartered banks of Canada or at such other place of deposit as may be approved by the council;
- (b) deposit all money received by him on account of the municipality, and no other money, to the credit of such account or accounts, and no other account; and
- (c) keep the money of the municipality entirely separate from his own money and from that of any other person,

and, notwithstanding subsection 1 of section 220, the council shall not by by-law or resolution direct any variance from the provisions of this section, nor shall the treasurer vary from such provisions. 1953, c. 70, s. 7.

**222.** Every treasurer shall prepare and submit to the council, half-yearly, a statement of the money at the credit of the corporation. Half-yearly statement of assets  
R.S.O. 1950, c. 243, s. 240.

**223.**—(1) The treasurer of every municipality shall in each year within the time prescribed by the Department make a return to the Department on forms provided by it of such information and statistics with respect to the financial affairs, accounts and transactions of the municipality as the Department may prescribe, and every such return shall be transmitted by registered mail. Treasurers' returns to Department  
R.S.O. 1950, c. 243, s. 241 (1).

(2) For every contravention of this section, the treasurer is guilty of an offence and on summary conviction is liable to a fine of not more than \$40. Offence  
R.S.O. 1950, c. 243, ss. 241 (2), 493.

(3) The Department shall cause to be prepared annually a tabulated statement of the returns which shall be laid before the Assembly. Returns by Department  
R.S.O. 1950, c. 243, s. 241 (3).

Provision  
on dismissal  
from office

**224.** Where a treasurer is removed from office or absconds, the council shall forthwith give notice to his sureties, and his successor may draw any money of the corporation that may have been deposited by the treasurer to his credit. R.S.O. 1950, c. 243, s. 242.

#### ASSESSORS AND COLLECTORS

Assessors  
and collec-  
tors, ap-  
pointment

**225.**—(1) The council of every local municipality shall appoint as many assessors and as many collectors for the municipality as may be deemed necessary.

Appoint-  
ments need  
not be  
annual

(2) Every by-law appointing an assessor or a collector remains in force until repealed, and it is not necessary to appoint the assessor or collector annually.

Regulations  
as to  
duties

(3) The council may assign to an assessor or collector the district within which he is to act, and may make regulations for governing him in the performance of his duties.

Extent of  
jurisdiction

(4) In a city, town or township, the same person may be appointed assessor or collector for more than one ward or polling subdivision. R.S.O. 1950, c. 243, s. 243.

Assessment  
commis-  
sioners and  
boards of  
assessors

**226.**—(1) The council of a local municipality may appoint an assessment commissioner and may constitute a board of assessors which shall have all the powers and perform all the duties of assessors. R.S.O. 1950, c. 243, s. 244 (1).

Deputy  
assessment  
commis-  
sioner

(2) The council of a local municipality may appoint a deputy assessment commissioner who shall have all the powers and duties of an assessment commissioner under this and every other Act.

Acting  
assessment  
commis-  
sioner

(3) When the office of the assessment commissioner is vacant or the assessment commissioner is unable to carry out his duties through illness or otherwise, the council of a local municipality may appoint an acting assessment commissioner *pro tempore* who shall have all the powers and duties of the assessment commissioner under this and every other Act. 1955, c. 48, s. 23.

Duties  
in certain  
cities and  
towns

(4) The council of a city or town, having a population of less than 20,000, may provide that all the duties of an assessor shall be performed by the assessment commissioner, and in that case it is not necessary to appoint assessors.

Annual  
appoint-  
ments not  
necessary

(5) It is not necessary to appoint annually the assessment commissioner or the assessors.

Notices

(6) In a local municipality that has an assessment commissioner, all notices in matters relating to assessment that in other municipalities are required by this or any other Act



to be given to the clerk shall be given to the assessment commissioner. R.S.O. 1950, c. 243, s. 244 (2-4).

**227.** A local municipality that forms part of a county, with the consent of the county council, may appoint the county assessor to be the assessment commissioner or assessor for the local municipality upon such terms as may be agreed upon between the county and the local municipality. 1958, c. 64, s. 15.

#### AUDITORS AND AUDIT

**228.—(1)** The council of every municipality shall by law appoint one or more auditors who shall be persons licensed by the Department as municipal auditors and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the council, and every person so appointed shall in addition to his duties in respect of the corporation audit the accounts and transactions of every local board as defined in *The Department of Municipal Affairs Act*.

County assessor as local assessor

Appointment of auditors

R.S.O. 1960, c. 98

(2) Where a local board functions in more than one municipality, the accounts and transactions thereof shall be audited by an auditor of the municipality in which the local board functions most, and in the event of disagreement as to the proper auditor the matter upon application may be determined by the Department.

Where local board in more than one municipality

(3) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the municipality and charged back to the local board, and in the event of a dispute as to the amount of the cost the Department may upon application finally determine the amount thereof.

Cost of audit

(4) Every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory shall appoint one or more auditors and the provisions of this Act with respect to auditors apply *mutatis mutandis*.

Local boards in unorganized territory

(5) Where by any other general or special Act auditors are required to be appointed or elected by or for any authority within the meaning of this section, the exercise of such power is not mandatory, notwithstanding such Act.

Provision to avoid duplication of audits

(6) No person shall be appointed as an auditor of a municipality who is or during the preceding year was a member of the council or any local board of the municipality or of any other local board the accounts and transactions of which it would as auditor be his duty to audit or who has or during

Disqualification of persons as auditors

the preceding year had any direct or indirect interest in any contract with the municipality or any of the aforementioned local boards or any employment with any of them other than as an auditor.

Case of  
county  
auditor  
refusing  
to act

(7) If a person appointed auditor for a county refuses or is unable to act, the head of the council shall appoint another person not in the employment of such head to be auditor in his stead. R.S.O. 1950, c. 243, s. 245.

Duties of  
auditor

**229.** An auditor shall perform such duties as are prescribed by the Department and also such duties as may be required by the council or any local board that do not conflict with the duties prescribed by the Department. R.S.O. 1950, c. 243, s. 246.

Right of  
access, etc.

**230.**—(1) The auditor of a municipality has right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the municipality or any local board thereof, and is entitled to require from the members of council and local boards and from the officers of the municipality and its local boards such information and explanation as in his opinion may be necessary to enable him to carry out such duties as are prescribed by the Department.

Auditor  
may take  
evidence on  
oath

R.S.O. 1960,  
c. 323

Auditor  
may attend  
meetings

(2) The auditor may require any person to give evidence on oath touching any of such matters and for such purpose has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

(3) The auditor is entitled to attend any meeting of members of council or any local board of the municipality and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. 1960, c. 69, s. 8.

Audit of  
accounts  
before  
payment

**231.** The council of any municipality may provide that all accounts shall be audited before payment. R.S.O. 1950, c. 243, s. 248.

The council  
to audit  
finally, etc.

**232.** The council shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and collectors, and all accounts chargeable against the corporation, and, where charges are not regulated by law, the council shall allow what is reasonable. R.S.O. 1950, c. 243, s. 249.

Money pay-  
able by Prov-  
ince to be  
retained if  
returns not  
made

**233.** The Treasurer of Ontario may in his discretion retain in his hands any money payable to a corporation, if it is certified to him by the Department that any officer of the

corporation whose duty it is to make returns to the Department has not done so. R.S.O. 1950, c. 243, s. 250.

**234.**—(1) Every treasurer, deputy treasurer and collector and every other officer of the corporation, as the council may require, before entering on the duties of his office shall give annually such security as the council directs for the faithful performance of such duties and for duly accounting for and paying over all money that comes into his hands.

Security to be furnished by officers

(2) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company within the meaning of *The Guarantee Companies Securities Act* and shall be in such form and on such terms as the Department may approve.

Nature of security

R.S.O. 1960, c. 168

(3) It is the duty of the council, at a meeting held not later than the 15th day of February in every year with respect to those of its officers who continue in office from year to year and at the first meeting after his appointment with respect to any newly appointed officer, to require the production before it of every bond, policy or guarantee contract required under this section.

Inspection of surety bonds

(4) The council shall forthwith after the production thereof direct where and with whom the bonds, policies and guarantee contracts given under this section shall be deposited for safe keeping and where the same shall be available for inspection by the auditor, and the auditor shall in his annual report to the Department include such information with respect to the same as may be required by the Department.

Inspection and return as to security

(5) The premiums payable in respect of any bond, policy or guarantee contract given under this section is payable by the corporation out of its general funds.

Premiums

(6) The Department may upon examination of any return made to it for any municipality under this section report to the council with respect to matters arising out of the return, and as to the necessity for other officers, employees and servants furnishing security, and as to the sufficiency of security furnished as disclosed by the return.

Notices from Department as to surety bonds

(7) This section applies *mutatis mutandis* to the treasurer and every other officer as the board may require of a local board as defined in *The Department of Municipal Affairs Act*, except a school board, and to every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory, except a school board. R.S.O. 1950, c. 243, s. 251.

Local boards and authorities

R.S.O. 1960, c. 98



Publication  
of state-  
ments of  
revenues  
and ex-  
penditures

**235.** The council of any municipality may prior to the day fixed for holding nominations publish a detailed statement signed by the head of the council and the treasurer of the revenues and expenditures for the current year in the form and manner prescribed by the Department. R.S.O. 1950, c. 243, s. 252.

#### DUTIES OF OFFICERS RESPECTING OATHS AND DECLARATIONS

Declaration  
of office

**236.**—(1) Every member of a council, trustee of a police village, every public utility commissioner and commissioner of industries, and every clerk, treasurer, assessment commissioner, assessor, collector, engineer, clerk of works and street overseer or commissioner, before entering on the duties of his office, shall make and subscribe a declaration of office (Form 20).

Declaration  
of person  
appointed to  
more than  
one office

(2) Every person elected or appointed to two or more municipal offices may make one declaration of office as to all of them.

Declaration  
of constable

(3) Every constable, before entering upon the duties of his office, shall make and subscribe a declaration (Form 21).

Oath of  
office

(4) Every returning officer, deputy returning officer and poll clerk before entering upon the duties of his office shall take the oath of office (Form 22).

Administra-  
tion of oaths  
to deputy  
returning  
officers and  
poll clerks

(5) Where by this Act any oath or declaration is required to be made by a deputy returning officer or by a poll clerk, and no special provision is made therefor, the oath or declaration, in the case of a deputy returning officer, may be made before the returning officer for the municipality or ward or before the poll clerk or before any person authorized to administer an oath, and, in the case of a poll clerk, before any such person or before the deputy returning officer.

Auditor's  
declaration

(6) Every auditor, before entering upon his duties, shall make and subscribe a declaration (Form 23).

Filing of  
declaration

(7) Except where otherwise provided, the person by whom the oath or declaration is made shall file it in the office of the clerk within eight days after it is made. R.S.O. 1950, c. 243, s. 253.

Declaration  
of office

**237.** Every qualified person elected to any municipal office shall take the declaration of office, where he is elected to fill a vacancy, within ten days after his election, and in other cases on or before the day fixed for holding the first meeting of the body to which he was elected, and in default he shall be deemed to have resigned. R.S.O. 1950, c. 243, s. 254.

SALARIES, TENURE OF OFFICE AND GRATUITIES

**238.**—(1) When the remuneration of any officer of a corporation is not fixed by law, the council shall fix it. Salaries of officers

(2) The council shall give to the clerk for services and duties performed by him under *The Ditches and Watercourses Act* a fair and reasonable remuneration to be fixed by the council. Remuneration of clerk for certain services  
R.S.O. 1960, c. 109

(3) The council shall fix the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by him, other than such as it is his duty to perform under that Act. Fees for copies of awards, etc.

(4) Where an appointment to an office or an arrangement for the discharge of the duties of an office is to be made, the council shall not invite or require applicants to name a sum for which they will discharge the duties of the office, or give the appointment to, or make the arrangement with, the person who offers to perform the duties at the lowest salary or remuneration. Remuneration not to be settled by tender

(5) Notwithstanding that a corporation employs a solicitor or a counsel whose remuneration is wholly or partly paid by salary, annual or otherwise, the corporation has the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the solicitor or counsel was not so remunerated, if the costs are, by the terms of his employment, payable to the solicitor or counsel as part of his remuneration in addition to his salary. R.S.O. 1950, c. 243, s. 255. When municipality employing solicitor at a salary may recover costs

**239.** All officers appointed by a council shall hold office during the pleasure of the council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act or by by-law of the council. R.S.O. 1950, c. 243, s. 256. Tenure of office, duties

**240.**—(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise, to an employee during his life who has had continuous service for at least twenty years with the municipality or with the municipality and any other municipality or local board as defined in *The Department of Municipal Affairs Act* or any two or more of them and who, Retirement allowances  
R.S.O. 1960, c. 98

(a) is retired because of age; or

(b) while in the service of any municipality or local board has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance together with the amount of any pension payments payable to the employee in

any year under a pension plan of any municipality or local board will exceed three-fifths of his average annual salary for the preceding three years of his service. 1955, c. 48, s. 24 (1), *part*; 1960, c. 69, s. 9.

Contribu-  
tions by  
municipality  
or local  
board

(2) Where a council grants an annual retirement allowance to an employee under subsection 1, any municipality or local board of which he has been an employee may contribute to such allowance by agreement with the municipality granting the allowance. 1955, c. 48, s. 24 (1), *part*.

Interpre-  
tation

(3) In subsection 1, "pension payments" means only pension payments that have resulted from the joint contributions of employer and employee, and does not include any such payments that have resulted solely from contributions of the employee. R.S.O. 1950, c. 243, s. 257 (2).

Application  
of section

(4) This section does not apply to an employee who has entered or enters the service of any municipality or local board after the 1st day of January, 1948. 1955, c. 48, s. 24 (2).

Interpre-  
tation

(5) In this section, "employee" has the same meaning as in paragraph 59 of section 377. R.S.O. 1950, c. 243, s. 257 (4).

#### INVESTIGATION OF CHARGES OF MALFEASANCE, ETC., OR JUDICIAL INQUIRY IN RELATION TO MUNICIPAL MATTERS

Investiga-  
tion by  
county  
judge of  
charges of  
malfeasance

**241.**—(1) Where the council of a municipality passes a resolution requesting a judge of the county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate, to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the council, or an officer or a servant of the corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, servant or other person to the corporation, or to inquire into or concerning any matter connected with the good government of the municipality or the conduct of any part of its public business, including any business conducted by a commission appointed by the municipal council or elected by the electors, the judge shall make the inquiry and for that purpose has all the powers that may be conferred upon commissioners under *The Public Inquiries Act*, and he shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken.

R.S.O. 1960,  
c. 323

Fees payable  
to judge

R.S.O. 1960,  
c. 197

(2) The judge shall be paid by the corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*.



(3) The council may engage and pay counsel to represent the corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. R.S.O. 1950, c. 243, s. 258.

Engaging  
counsel

## PART IX

### GENERAL PROVISIONS APPLICABLE TO ALL MUNICIPALITIES

**242.**—(1) Except where otherwise provided, the jurisdiction of every council is confined to the municipality that it represents and its powers shall be exercised by by-law.

Jurisdiction  
of councils

(2) A by-law passed by a council in the exercise of any of the powers conferred by and in accordance with this Act, and in good faith, shall not be open to question, or be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. R.S.O. 1950, c. 243, s. 259.

By-law not  
to be  
quashed  
because un-  
reasonable

**243.** Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and are not contrary to law, and for governing the proceedings of the council, the conduct of its members and the calling of meetings. R.S.O. 1950, c. 243, s. 260.

General  
power to  
make regu-  
lations

**244.** Proceedings begun by one council may be continued and completed by a succeeding council. R.S.O. 1950, c. 243, s. 261.

Council a  
continuing  
body

**245.** The council of a local municipality shall not, after the day the poll is held for the election of the new council, or, where all members of council are elected by acclamation, after the day the candidates are declared elected under section 49, pass any by-law, except a by-law with respect to an undertaking, work, project, scheme, act, matter or thing that has been approved by the Municipal Board, or resolution for, or that involves, directly or indirectly, the payment of money other than that provided in the estimates for the current year, or enter into any contract or obligation on the part of the corporation, or appoint to or dismiss from office any officer under the control of the council, or do any other corporate act, except in case of extreme urgency, or unless the act is one that

Certain acts  
not to be  
done by  
councils  
after polling  
day

the council is required by law to do or is one that the council is authorized to do by a resolution or by-law passed before the day the poll is held or the day the members of council are declared elected under section 49, as the case may be. 1956, c. 50, s. 9.

Fiscal year  
and audit

**246.** Notwithstanding any other provision in this Act or any general or special Act,

R.S.O. 1960,  
c. 98

(a) the fiscal year of every municipality and local board, as defined in *The Department of Municipal Affairs Act*, is the calendar year from the 1st day of January to the 31st day of December; and

(b) the accounts referred to in section 232 are those of the next preceding fiscal year. 1953, c. 70, s. 8.

Power to  
license in-  
cludes power  
to prohibit

**247.—**(1) The power to license any trade, calling, business or occupation or the person carrying on or engaged in it includes the power to prohibit the carrying on of or the engaging in it without a licence.

Who to fix  
amount of  
licence fee

(2) Except where the power of fixing the fee to be paid for the licence is expressly conferred on a board of commissioners of police, the council of the municipality, where by this or any other Act the council or the board is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, may, subject to the limitations in the Act, fix the fee to be paid for the licence and the time for which it shall be in force and may provide for enforcing payment of the licence fee.

Licence fee  
may be a  
tax

(3) The licence fee may be in the nature of a tax for the privilege conferred by it. R.S.O. 1950, c. 243, s. 263 (1-3).

Discretion  
as to grant-  
ing or  
refusing a  
licence

R.S.O. 1960,  
c. 396

(4) Subject to *The Theatres Act*, the granting or refusing of a licence to any person to carry on a particular trade, calling, business or occupation, or of revoking a licence under any of the powers conferred upon a council or a board of commissioners of police by this or any other Act, is in its discretion, and it is not bound to give any reason for refusing or revoking a licence and its action is not open to question or review by any court. R.S.O. 1950, c. 243, s. 263 (4); 1954, c. 56, s. 12 (1).

Certain  
licences not  
to be refused  
by reason  
only of loca-  
tion of busi-  
ness affected

(5) Notwithstanding subsection 4, a board of commissioners of police or a council shall not refuse to grant a licence with respect of the carrying on of any business by reason only of the location of such business where such business was being carried on at such location at the time of the coming into force of the by-law requiring such licence.

(6) Where a licence is revoked, the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted. R.S.O. 1950, c. 243, s. 263 (5, 6). <sup>Refund when licence revoked</sup>

(7) Where, under this or any other Act, a board of commissioners of police is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, and for revoking such licences, the board may by by-law authorize the chief constable of the municipality to suspend any such licence for such time and subject to such terms and conditions as the by-law may provide. <sup>Suspension of licences</sup>

(8) No suspension of a licence by a chief constable is effective after the expiration of two weeks from the date of suspension or after the time of the next meeting of the board after the suspension, whichever occurs first. 1954, c. 56, s. 12 (2), *part*. <sup>Idem</sup>

(9) Notwithstanding subsection 4, the decision of a board of commissioners of police in refusing or revoking a licence is subject to an appeal therefrom to a judge of the Supreme Court whose decision is final. 1954, c. 56, s. 12 (2), *part*; 1955, c. 48, s. 26. <sup>Appeal from revocation of licence</sup>

(10) The practice and procedure on and in relation to an appeal made under subsection 9 shall be the same, as nearly as may be, as in the case of an appeal from a decision of the Master of the Supreme Court in an action or proceeding in the Supreme Court. 1954, c. 56, s. 12 (2), *part*. <sup>Practice on appeal</sup>

**248.**—(1) Subject to section 249, and to section 6 of *The Ferries Act* and to section 100 of *The Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any trade, calling or business, or impose a special tax on any person exercising it, or require a licence to be taken for exercising it, unless authorized or required by this or any other Act so to do; but the council may require a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to the trade, calling or business. R.S.O. 1950, c. 243, s. 264 (1); 1955, c. 48, s. 27. <sup>Granting monopolies prohibited R.S.O. 1960, cc. 141, 394</sup>

(2) This section does not prevent the council under the powers conferred by paragraph 1 of section 401 from limiting the number of licences and the number of tables to such number as the council may deem fit even if the number be limited to one. R.S.O. 1950, c. 243, s. 264 (2). <sup>Limiting number of pool and billiard tables and licences</sup>



Exclusive  
right to  
maintain  
waste-paper  
boxes on  
streets

**249.**—(1) The council of a city may grant to any person, upon such terms and conditions as may be deemed expedient, the exclusive right to place and maintain, for any period not exceeding ten years, iron waste-paper boxes on the street corners or elsewhere in the city, under and subject to the direction of the city engineer and the approval of the council.

Location  
of boxes

(2) The location of the boxes is subject to change from time to time at the expense of the grantee, by whom the boxes shall be kept clean and painted and the collections therein removed to the satisfaction of the city engineer and as often as he may direct.

Power to  
control and  
collect fees

(3) The council may,

- (a) regulate and control the type of construction of such boxes and from time to time vary and change the locations thereof;
- (b) allow the painting of advertisements thereon and regulate the wording thereof and prohibit the placing of objectionable matter thereon;
- (c) fix and collect an annual fee from the owner thereof for the privilege granted;
- (d) keep such boxes clean and undertake the removal of the waste deposited therein. R.S.O. 1950, c. 243, s. 265.

Cold storage  
business

**250.** The council of a city may establish and carry on the business of cold storage in connection with or upon the market property of the corporation. R.S.O. 1950, c. 243, s. 266.

Borrowing  
powers

**251.** Subject to the limitations and restrictions in this and any other Act, a council may borrow money for the purposes of the corporation, whether under this or any other Act, and may issue debentures therefor. 1955, c. 48, s. 28.

Debentures  
for joint  
under-  
takings

**252.**—(1) Where, under this or any other general Act, two or more municipalities are authorized or required jointly to provide moneys for any purpose, and it is necessary to raise such moneys by the issue of debentures, the Municipal Board upon the application of the council of one or more of such municipalities may by order authorize one of such municipalities to raise the whole amount required by the issue of its debentures, or to raise its portion of the moneys and the portion of one or more of the other municipalities by the issue of its debentures, and may by its order relieve the other municipalities or such other municipalities, as the case may be, from the necessity of issuing debentures.

(2) Where, under an order of the Municipal Board under subsection 1, any municipality issues debentures for the portion of the moneys required to be raised by another municipality, the other municipality shall provide and raise by a special rate on all the rateable property in the municipality liable therefor, in each year of the currency of the debentures, a sum sufficient to pay its share of the principal and interest falling due in such year upon such debentures, such share to be determined in the proportion that that municipality's portion of the moneys required to be raised bears to the total amount of the debenture issue. R.S.O. 1950, c. 243, s. 268 (1, 2). <sup>Annual rates</sup>

(3) The sum to be raised annually by such other municipality to pay its share of any principal or interest falling due in any year upon any such debentures shall be paid to the treasurer of the municipality that issued the debentures before the day such principal or interest becomes due. 1956, c. 50, s. 10. <sup>Payment to municipality issuing debentures</sup>

(4) No order of the Municipal Board under this section shall require a municipality, without its consent, to issue debentures to provide moneys required to be raised by another municipality. <sup>Consent required</sup>

(5) This section does not apply where the Act under which the moneys are authorized or required to be raised contains provisions similar in effect to the provisions of this section. R.S.O. 1950, c. 243, s. 268 (4, 5). <sup>Limited application of section</sup>

#### AUTHENTICATION OF BY-LAWS

**253.**—(1) Every by-law shall be under the seal of the corporation, and shall be signed by the head of the council or by the presiding officer at the meeting at which the by-law was passed and by the clerk. <sup>How by-laws to be authenticated</sup>

(2) Every by-law purporting to be so sealed and signed, when produced by the clerk or any officer of the corporation charged with the custody of it, shall be received in evidence in all courts without proof of the seal or signature. <sup>Proof of seal or signature not required</sup>

(3) Where, by oversight, the seal of the corporation has not been affixed to a by-law, it may be affixed at any time afterwards, and, when so affixed, the by-law is as valid and effectual as if it had been originally sealed. <sup>Omission to affix seal</sup>

(4) A copy of a by-law, purporting to be certified by the clerk, under the seal of the corporation, as a true copy, shall be received in evidence in all courts without proof of the seal or signature. R.S.O. 1950, c. 243, s. 269. <sup>Certified copy of by-law</sup>

## CERTIFICATE OF CLERK AS TO APPLICATION FOR BY-LAW

Certificate  
of clerk  
that appli-  
cation for  
by-law duly  
signed

**254.**—(1) Where by this or any other Act it is provided that a by-law may be passed by a council upon the application of a prescribed number of electors or inhabitants of the municipality or locality, the by-law shall not be finally passed until the clerk or, where there is an assessment commissioner, the assessment commissioner has certified that the application was sufficiently signed.

Powers  
of clerk

(2) For the purposes of this section, the clerk and the assessment commissioner have all the powers of the clerk under section 15 of *The Local Improvement Act*.

R.S.O. 1960,  
c. 223

Certificate  
to be  
conclusive

(3) Where the clerk or assessment commissioner has so certified, his certificate is conclusive that the application was sufficiently signed. R.S.O. 1950, c. 243, s. 270.

## PART X

## VOTING ON BY-LAWS

Interpre-  
tation

**255.** In this Part,

- (a) "by-law" includes a resolution and a question upon which the opinion of the electors is to be obtained;
- (b) "electors" means the persons entitled to vote on the by-law;
- (c) "judge" means the judge or junior judge of the county or district court of the county or district in which the municipality, the council of which submits the by-law, is situate;
- (d) "proposed by-law" means a by-law submitted for the assent of the electors. R.S.O. 1950, c. 243, s. 271.

Bribery  
sections, etc.,  
to apply to  
voting on  
any by-law  
or question

**256.** All the provisions of this Act, prohibiting the doing of any act or making it an offence against this Act, and prescribing penalties therefor, applicable to the election of members of municipal councils apply *mutatis mutandis* to the voting upon a by-law, whether the submission of it to the electors is optional with or compulsory upon the council. R.S.O. 1950, c. 243, s. 272.

If a by-law  
requires the  
assent of  
the electors,  
mode of  
obtaining  
same

**257.**—(1) Where a by-law requires the assent or is submitted to obtain the opinion of the electors, except where otherwise provided the council shall, by a separate by-law, appoint the day for taking the votes of the electors, the places where the votes are to be taken and a deputy returning officer to take the votes at every such place.



(2) Where a municipality is divided into wards, there shall <sup>Wards</sup> be at least one polling place in each ward.

(3) The date appointed shall not be less than three or more <sup>Date of</sup> than five weeks after the first publication of the notice herein- <sup>taking vote</sup> after mentioned. R.S.O. 1950, c. 243, s. 273 (1-3).

(4) The by-law for taking the vote shall also appoint a time <sup>Time and</sup> when, and a place where, the clerk will sum up the number of <sup>place for</sup> votes given for and against the proposed by-law, or in the <sup>summing</sup> affirmative and the negative on the question and a time and a <sup>up votes,</sup> place for the appointment of persons to attend at the polling <sup>etc., by</sup> places, and at the final summing up of the votes by the clerk, <sup>clerk</sup> on behalf of the persons interested in and promoting or opposing the by-law or voting in the affirmative or the negative on the question.

(5) A copy of the proposed by-law or a statement of the <sup>Publication</sup> question submitted, as the case may be, shall be published once <sup>of by-law</sup> a week for three successive weeks, together with a notice signed by the clerk stating that the copy is a true copy of the proposed by-law or a correct statement of the question submitted, as the case may be, and, in the case of a by-law, that, if the assent of the electors is obtained to it, it will be taken into consideration by the council after the expiration of one month from the date of the first publication, which date shall also be stated, and, in the case of a money by-law or a question as to securing a supply of electrical power or energy from The Hydro-Electric Power Commission of Ontario, stating that a tenant who desires to vote must deliver to the clerk not later than the tenth day before the day appointed for taking the vote the declaration provided for by subsection 4 of section 260. R.S.O. 1950, c. 243, s. 273 (5, 6).

(6) The notice shall also state the day and places appointed <sup>Notice</sup> for taking the votes, except where the votes are to be taken at the same time as the municipal election, and, in that case, shall state that the votes will be taken at the municipal election, and shall also state the time and place for the appointment of persons to attend at the polling places and at the final summing up of the votes by the clerk. R.S.O. 1950, c. 243, s. 273 (7); 1958, c. 64, s. 16 (2).

(7) Instead of publishing a copy of the proposed by-law, <sup>Synopsis</sup> the council may publish a synopsis of it, containing a concise <sup>of by-law</sup> statement of its purpose, the amount of the debt or liability to <sup>may be</sup> be created or the money to be raised by it, how the same is to <sup>published</sup> be payable, and the amount to be raised annually for the payment of the debt, and the interest or the instalments, if the debt is to be paid by instalments.

By-laws,  
questions, in  
one notice

(8) Where more than one by-law or question is to be submitted at the same time, all of such by-laws and questions may be included in one notice. R.S.O. 1950, c. 243, s. 273 (8, 9).

By-laws,  
questions, in  
one ballot

**258.** Where more than one by-law or question is to be submitted at the same time, all of such by-laws and questions may be placed upon one ballot paper. R.S.O. 1950, c. 243, s. 274.

Appoint-  
ment of  
persons to  
attend at  
polling  
places and  
at final sum-  
ming up of  
votes

**259.**—(1) The head of the council, or a member of it appointed for that purpose by resolution, shall attend at the time and place appointed and, if requested so to do, shall appoint, by writing signed by him, two persons to attend at the final summing up of the votes by the clerk, and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question, and a like number on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question.

Declaration

(2) Before any person is so appointed, he shall make and subscribe a declaration (Form 24).

Appoint-  
ment to be  
produced

(3) A person so appointed, before being admitted to the polling place or to the summing up of the votes, shall, if so requested, produce and show his appointment to the deputy returning officer.

When elector  
may act

(4) In the absence of a person so appointed or if no person has been appointed, any elector, upon making and subscribing, before the returning officer or deputy returning officer, a declaration (Form 24), may be present at a polling place or at the final summing up of the votes, as the case may be. R.S.O. 1950, c. 243, s. 275.

Persons  
qualified to  
vote on  
money  
by-laws

**260.**—(1) The persons qualified to vote on a money by-law are those entitled to vote at an election with the following exceptions:

- (a) tenants, other than those mentioned in subsection 4;
- (b) farmers' sons;
- (c) farmer's daughter or farmer's sister;
- (d) a person who is a municipal elector by reason of being the wife or husband of the person rated or entitled to be rated for land as provided by clause *d* or *e* of subsection 1 of section 37. R.S.O. 1950, c. 243, s. 276 (1); 1955, c. 48, s. 29.

(2) The nominee of a corporation assessed upon the last revised assessment roll of the municipality which, if it had been a male person, would have been entitled to have been entered on the voters' list from which the list of voters mentioned in section 261 is to be prepared or in the case provided for by section 82 would, had it been a male person, have been entitled to be entered on such list of voters is also qualified to vote. R.S.O. 1950, c. 243, s. 276 (2). Nominee of corporation

(3) Where a corporation is assessed as owner of residential property consisting of units or apartments that are owned on a co-operative basis, the corporation may nominate a person to vote on money by-laws for each unit or apartment separately assessed on the last revised assessment roll. 1957, c. 76, s. 13. Where corporation assessed for residential property owned on a co-operative basis

(4) A tenant whose lease extends for the time for which the debt or liability is to be created or in which the money to be raised by the proposed by-law is payable, or for at least twenty-one years, and who has by the lease covenanted to pay all municipal taxes in respect of the property other than local improvement rates, if he makes and files with the clerk, not later than the tenth day before the day appointed for taking the vote, a declaration under the *Canada Evidence Act* so stating, is entitled to have his name entered on the list of voters prepared by the clerk under section 261. Qualification of tenants  
R.S.C. 1952, c. 307

(5) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a money by-law, it shall, not later than the tenth day before the day appointed for taking the vote, file with the clerk of the municipality an appointment in writing of a person to vote as its nominee and on its behalf, and the name of every such nominee shall be included in the list. R.S.O. 1950, c. 243, s. 276 (3, 4). Appointment of nominee of corporation to be filed with clerk

**261.**—(1) Where the proposed by-law is a money by-law or one on which all the municipal electors are not entitled to vote, the clerk, after the passing of the by-law for taking the vote and not later than the tenth day before the day appointed for taking the vote, shall prepare a list of the persons entitled to vote on the proposed by-law and, subject to section 262 and to section 25 of *The Voters' Lists Act*, the list so prepared is final and conclusive as to the right of every person named therein to vote, and that no person not named therein is entitled to vote. R.S.O. 1950, c. 243, s. 277 (1); 1954, c. 56, s. 13. Preparation of list of voters  
R.S.O. 1960, c. 420

(2) The clerk shall prepare such list from the last revised voters' list, and in the case provided for by section 82 from the last revised assessment roll, omitting from his list the From last revised voters' list or assessment roll



names of all persons whose names are entered on such voters' list or assessment roll, but are not entitled as appears by such list or roll to vote on the by-law, and in the case of money by-laws including in the list the nominees of corporations who are entitled to vote on the by-law.

Designating  
tenants  
entitled to  
vote

(3) When the voting is to take place at the same time as the municipal elections, it is sufficient, in the case of persons whose names are entered on the voters' list as tenants, if there is written on the voters' list used for the purpose of the election opposite to the name of such of them as are entitled to vote on the by-law the words "entitled to vote on the by-law", and it shall be deemed that the names of all others of such persons are omitted from the list within the meaning of subsection 2.

Clerk to  
certify

(4) The list prepared by the clerk shall be certified by him to be a true and correct list of all persons entitled to vote on the proposed by-law, and shall be forthwith posted up in his office. R.S.O. 1950, c. 243, s. 277 (2-4).

Revision  
of list by  
judge

**262.**—(1) At any time not later than five days before the day appointed for taking the vote, a judge, upon the application of any person whose name is entered on the list of voters prepared by the clerk or of any person entitled to be entered on that list, may strike from the list the name of any person who is dead or whose name has been wrongfully entered on it, and may add to the list the name of any person whose name has been wrongly omitted from the list or who, if a tenant, though he had not made the declaration prescribed by subsection 4 of section 260, establishes that he has the qualification prescribed by that section.

Proof of  
death

(2) For the purpose of proving a death, the certificate of the Registrar General is sufficient evidence, but, if the identity of the person who is dead with the person whose name is sought to be struck off is disputed or open to reasonable doubt, proof of the identity shall be required. R.S.O. 1950, c. 243, s. 278 (1, 2).

Proceedings  
R.S.O. 1960,  
c. 420

(3) The proceedings shall be the same, as nearly as may be, as prescribed by subsection 2 of section 23 of *The Voters' Lists Act*. R.S.O. 1950, c. 243, s. 278 (3); 1954, c. 56, s. 14.

Voters' list  
where all  
municipal  
electors  
vote

**263.** Where all the municipal electors are entitled to vote on the proposed by-law, the same lists shall be used in taking the vote as would be the proper voters' list to be used at a municipal election, and such lists are as final and conclusive as to the right to vote as when used at a municipal election. R.S.O. 1950, c. 243, s. 279.

**264.** In a municipality divided into wards, a voter is entitled to vote on a money by-law in each ward in which he has the prescribed qualification, but is not entitled to vote more than once on any other by-law or on any question submitted to the electors unless it is otherwise expressly provided by the Act, by-law or other authority under which the vote is taken. R.S.O. 1950, c. 243, s. 280.

**265.** The clerk, if otherwise qualified, is entitled to vote, but not to give a casting vote. R.S.O. 1950, c. 243, s. 281.

**266.**—(1) The ballot papers shall be according to Form 25 when the voting is on a by-law, and according to Form 26 when it is on a question.

(2) In a municipality divided into wards or polling subdivisions, or both, the ballot paper, Form 25 or 26, may by by-law be varied to show the names or numbers of the wards and the numbers of the polling subdivisions, and the form of ballot paper illustrated in Form 27 shall be varied accordingly. R.S.O. 1950, c. 243, s. 282.

**267.** The printed directions to voters shall be according to Form 27. R.S.O. 1950, c. 243, s. 283.

**268.**—(1) Where all the municipal electors are entitled to vote, the voter's oath shall be the same *mutatis mutandis* as at a municipal election where the members of the council are elected by general vote.

(2) In the case of a money by-law, a voter is not entitled to select the form of oath he will take, but the oath to be taken by him shall be that applicable to his qualification as an owner or tenant, as it appears in the list of voters. R.S.O. 1950, c. 243, s. 284.

**269.** Except as otherwise in this Part provided, Part III applies *mutatis mutandis* to voting on a by-law. R.S.O. 1950, c. 243, s. 285.

**270.** After the clerk has summed up the number of votes cast, he shall declare the result of the voting and shall forthwith certify to the council the number of votes cast for and against the by-law. R.S.O. 1950, c. 243, s. 286.

**271.** A by-law shall be deemed to have been assented to by the electors if a majority of the votes cast is in favour of the by-law. R.S.O. 1950, c. 243, s. 287.

Procedure  
in case of  
a county  
by-law

**272.** Where the by-law is proposed to be passed by a county council, the proceedings shall be similar to those in the case of a by-law proposed to be passed by the council of a local municipality except that the list of voters for each local municipality shall be prepared by the clerk of it and not by the clerk of the county council, and that the declaration and appointment provided for by subsections 4 and 5 of section 260 shall be filed with the clerk of the local municipality. R.S.O. 1950, c. 243, s. 288.

#### SCRUTINY

Scrutiny  
may be had  
on applica-  
tion to  
county or  
district  
judge

**273.—(1)** Within two weeks after the clerk has declared the result of the voting, any person who was entitled to vote upon the by-law or the council, after giving notice of the application to such persons as the judge directs, may apply to a judge of the county or district court of the county or district in which the municipality is situate for a scrutiny of the votes, and, if it is shown by affidavit that there are reasonable grounds for the application and, if the application is by a person entitled to vote on the by-law, he enters into a recognizance before the judge and to be allowed by him in the sum of \$100, with two sureties in the sum of \$50 each, conditioned to prosecute the application with effect and to pay to any person to whom costs may be awarded the costs awarded to him, the judge may order a scrutiny of the votes to be had and shall appoint a time and place within the municipality for proceeding with it.

Notice of  
time of  
scrutiny

**(2)** At least one week's notice of the time and place appointed shall be given by the applicant to such persons as the judge directs and to the clerk.

Proceedings

**(3)** At the time and place appointed, the clerk shall attend before the judge with the ballot papers, and the judge after hearing such evidence as he may deem necessary and the parties, or such of them as attend, or their counsel, shall in a summary manner determine whether the by-law has been assented to as required by this Act and shall forthwith certify the result to the council. R.S.O. 1950, c. 243, s. 289 (1-3).

Striking  
off votes  
for  
corrupt  
practices

**(4)** Where it is proved that any person interested in and promoting or opposing the by-law was guilty of bribery or of a corrupt practice in respect of a voter who voted on the by-law, there shall be struck off the number of votes given for the by-law if the person guilty was promoting the by-law, or given against the by-law if the person guilty was opposing the by-law, one vote for every ballot cast by such voter. R.S.O. 1950, c. 243, s. 289 (4), *amended*.



(5) The judge has the like power and authority as to Powers of Judge  
all matters arising upon the scrutiny as would be possessed by  
him upon a trial of the validity of the election of a member of  
a council, but does not have power to set aside the voting on  
the ground of general bribery or corrupt practices, and the  
costs are in the discretion of the judge who may direct by  
whom, to whom, and in what manner they shall be paid.

(6) The decision of the judge is final and not subject No appeal  
to appeal. R.S.O. 1950, c. 243, s. 289 (5, 6).

#### PASSING BY-LAWS BY COUNCIL

**274.**—(1) Subject to subsection 5, where a proposed by-Cases in  
law that the council has been legally required by petition or which  
otherwise to submit for the assent of the electors has received council  
such assent, it is the duty of the council to pass the by-law must pass  
law within six weeks after the voting took place. by-law  
assented to  
by electors

(2) Subject to subsection 5, in other cases it is not incum- Discretion  
bent on the council to pass the by-law, but, if the council of council  
determines to pass it, it shall be passed within six weeks after in other  
the voting took place and not afterwards. cases

(3) The by-law in either case shall not be passed until the Time within  
expiration of two weeks after the result of the voting has been which by-  
declared or, if within that period an order for a scrutiny has law cannot  
been made, until the result of the scrutiny has been certified be passed  
by the judge.

(4) The time that intervenes between the making of an Time occu-  
application for a scrutiny and the final disposition of it shall pied by  
not be reckoned as part of the six weeks. scrutiny not  
to be  
counted

(5) The Municipal Board may, upon the application of the Extension  
council, extend the time for passing the by-law beyond such of time  
period of six weeks, and such extension of time may be made for passing  
although the application for the extension is not made until by-law  
after the expiration of such period of six weeks, and in such  
case the by-law may be passed within such extended time.  
R.S.O. 1950, c. 243, s. 290.

#### PROMULGATION OF BY-LAWS

**275.**—(1) The promulgation of a by-law consists of the Promulga-  
publication of a true copy of it, with a notice (Form 28) tion of  
appended thereto, at least once a week for three successive by-laws  
weeks. R.S.O. 1950, c. 243, s. 191 (1).

(2) Instead of publishing a true copy of the by-law, a Synopsis of  
synopsis of it may be published, containing a concise statement by-law may  
of its purposes, the amount of any debt or liability to be created be published  
or money to be raised by it, how the same is to be payable,

and the amount to be raised annually for the payment of the debt, and the interest or the instalments, if the debt is to be paid by instalments. 1956, c. 50, s. 11.

If not moved  
against  
within  
the time  
limited to  
be valid

(3) If an application to quash the by-law, or part of it, is not made within three months after the first publication, the by-law, or so much of it as is not the subject of or is not quashed upon any such application, is valid and binding according to its terms so far as the same ordains, prescribes or directs anything within the proper competence of the council. R.S.O. 1950, c. 243, s. 291 (2).

## PART XI

### QUASHING BY-LAWS

Interpre-  
tation

**276.** In this Part, "by-law" includes an order or resolution. R.S.O. 1950, c. 243, s. 292.

Proceedings  
to quash  
by-law

**277.**—(1) The Supreme Court upon application of a resident of the municipality or of a person interested in a by-law of its council may quash the by-law in whole or in part for illegality.

Service of  
notice

(2) Notice of the application shall be served at least seven days before the return day of the motion.

Recog-  
nizance

(3) Before the application is made, the applicant or, if the applicant is a corporation, some person on its behalf shall enter into a recognizance before a judge of the county or district court of the county or district in which the municipality is situate, with two sureties in the sum of \$100, conditioned to prosecute the application with effect and to pay any costs that may be awarded against the applicant.

Allowance of  
recogni-  
zance

(4) The judge may allow the recognizance upon the sureties making proper affidavits of justification and, after it is allowed, the recognizances with the affidavits shall be filed in the office of the Registrar of the Supreme Court.

Deposit in  
court in  
lieu of re-  
cognizance

(5) In lieu of the recognizance, the applicant may pay into court \$100, and the certificate of the payment into court shall be filed in the office of the Registrar.

Application  
of deposit

(6) After the determination of the proceedings, the judge may order that the money paid into court be applied in payment of costs or be paid out to the applicant. R.S.O. 1950, c. 243, s. 293.

Quashing  
by-law for  
corrupt  
practice

**278.** A by-law, in respect of the passing of which a contravention of any of the provisions of sections 178 to 180 has taken place, may be quashed. R.S.O. 1950, c. 243, s. 294.

**279.**—(1) Where it is alleged that a by-law injuriously affects another municipality or any ratepayer of it, and that the by-law is illegal in whole or in part, the corporation of such other municipality or any ratepayer of it may apply to quash the by-law. Application to quash by-law affecting another municipality

(2) Where the application is made by a municipal corporation, security for costs shall not be required. No security required from municipality

(3) Where the application is based upon an allegation of a contravention of any of the provisions of sections 178 to 180, either alone or in conjunction with any other ground of objection, the Supreme Court may direct an inquiry as to the alleged contravention to be had before a special examiner or a judge of the county or district court of the county or district in which the municipality is situate, and the witnesses upon the inquiry shall be examined upon oath. Inquiry by county or district judge where corrupt practices alleged

(4) After the completion of the inquiry, the special examiner or the judge shall return the evidence taken before him to the proper officer of the Supreme Court, and the same may be read in evidence upon the motion to quash. Return of evidence to officer of Supreme Court

(5) Where an order directing an inquiry has been made under subsection 3 and a copy of it has been left with the clerk of the municipality, unless the Supreme Court otherwise orders, nothing shall be done under the by-law until the application is disposed of. No act to be done under by-law pending inquiry

(6) In other cases, the Court may direct that nothing shall be done under the by-law until the application is disposed of. Other cases  
R.S.O. 1950, c. 243, s. 295.

**280.** An application to quash, in whole or in part, a by-law, except a money by-law registered under section 293, shall not be entertained unless made within one year after the passing of the by-law, but, if the by-law required the assent of the electors and was not submitted for or did not receive such assent, the application may be made at any time. R.S.O. 1950, c. 243, s. 296. Time for making application to quash

## PART XII

### MONEY BY-LAWS

**281.** "Rateable property", when used in this Act or in any by-law heretofore or hereafter passed that directs the levying of a rate on the rateable property in the municipality or any part of it, includes business assessment within the meaning of *The Assessment Act*. R.S.O. 1950, c. 243, s. 297 (2). Interpretation

**282.**—(1) A money by-law shall provide that the whole debt and the debentures, if any, to be issued therefor shall be When debentures to be made payable

R.S.O. 1960,  
c. 23



made payable within the respective periods hereinafter mentioned at furthest from the time when the debentures are issued, R.S.O. 1950, c. 243, s. 298 (2), *part*; 1959, c. 62, s. 8 (2).

- (a) if the debt is for railways, harbour works or improvements, sewers, gas or waterworks, the purchase or improvement of parks or the erection of high, continuation or public school houses, public hospitals and the acquiring of land therefore, or for electric light, heat or power works or water privileges or land used in connection therewith, or for acquiring land for a drill-shed or armoury, in thirty years;
- (b) if the debt is for the establishment of a system of public scavenging or for the collection and disposal of ashes, refuse and garbage, in ten years;
- (c) if the debt is for the purchase of road-making machinery and appliances, in five years; R.S.O. 1950, c. 243, s. 298 (2), *cls. (a-c)*.
- (d) if the debt is for any other purpose, in such term of years as the Municipal Board may approve. 1952, c. 63, s. 10 (2).

Principal  
and interest  
payments

(2) A money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest. 1952, c. 63, s. 10 (3), *part*; 1959, c. 62, s. 8 (3).

Amount to  
be raised  
annually

(3) A money by-law for the issuing of debentures shall provide for raising in each year by a special rate on all the rateable property in the municipality the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act or in accordance with subsection 13. 1952, c. 63, s. 10 (3), *part*; 1959, c. 62, s. 8 (4).

By-law to  
change mode  
of issuing  
debentures

(4) The council may by by-law, without the assent of the electors, authorize a change in the mode of issue of the debentures, and may provide that the debentures be issued with coupons, instead of in amounts of combined principal and interest or *vice versa*, and, where any debentures issued under the by-law have been sold, pledged or hypothecated by the council, upon again acquiring them, or at the request of any

holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year.

(5) All the debentures shall be issued at one time and within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law. Debentures, when to be dated and issued

(6) All the debentures shall bear the same date, except where they are issued in sets, and in that case every debenture of the same set shall bear the same date. R.S.O. 1950, c. 243, s. 298 (5-7). Date of debentures

(7) Notwithstanding the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection 5 and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year. R.S.O. 1950, c. 243, s. 298 (8); 1954, c. 56, s. 15. Idem

(8) The Municipal Board, on the application of the council or of any person entitled to any of the debentures, or of the proceeds of the sale thereof, may extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law. Extension of time for issue

(9) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set. Application after time expired

(10) Unless the by-law names a later day when it is to take effect, it shall take effect on the day of its passing. Day when by-law to take effect

(11) Notwithstanding any other Act, the council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor. R.S.O. 1950, c. 243, s. 298 (9-12). Consolidation

(12) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the Redemption before maturity

corporation on any date prior to maturity, subject to the following provisions:

- |  |  |
|--|--|
| Place of payment and value               | (a) The by-law and every debenture that is so redeemable shall specify the place of payment and the value at which such debenture may be so redeemed.  |
| Interest                                 | (b) The principal of every debenture that is so redeemable shall become due and payable on the date set for the redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the amount thereof.   |
| Notice to registered owner               | (c) Notice of intention so to redeem shall be sent by post at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.   |
| Publication of notice                    | (d) At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in <i>The Ontario Gazette</i> and in a newspaper of general circulation, if any, in the municipality and in such other manner as the by-law may provide.   |
| Order in which debentures to be redeemed | (e) Where only a portion of the debenture issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates, and no debenture issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date.  |
| Effect of redemption                     | (f) Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof. R.S.O. 1950, c. 243, s. 298 (13); 1955, c. 48, s. 30. |
- (13) Notwithstanding anything in this section, if a municipality will be liable for a portion of the annual carrying charges on a debt intended to be created on behalf of two or more municipalities, such municipality may pass a by-law providing for raising, by a special rate on all the rateable property liable therefor in the municipality in each year of the currency of the debt, its share of the principal and interest falling due in each such year, and the by-law shall provide that such share shall be determined as provided in the Act authorizing the issue of the

Joint  
municipal  
projects



debentures and need not provide for the raising of a specific sum in each year of the currency of the debt. 1952, c. 63, s. 10 (4).

**283.**—(1) Notwithstanding any other provision in this Act or any other Act, where separate debenture by-laws have been passed authorizing the borrowing of sums for two or more purposes, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council may by by-law, hereinafter called a consolidating by-law, provide for borrowing the aggregate of such sums and for issuing one series of debentures therefor.

(2) The consolidating by-law shall clearly specify, by recital or otherwise, in respect of what separate by-laws it is passed.

(3) It is not necessary that the consolidating by-law shall impose any rate to provide for the payment of debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

(4) A consolidating by-law passed under this section may authorize the issue of debentures in one series notwithstanding that some of the debentures may be for different terms of years from the other debentures to be issued thereunder, provided that the sum to be raised in each year under the consolidating by-law shall equal the aggregate of the sums that would have been raised under the separate by-laws had no consolidating by-law been passed.

(5) Debentures issued pursuant to a consolidating by-law passed under this section need not refer to the separate by-laws in respect of which the consolidating by-law is passed. 1954, c. 56, s. 16.

**284.**—(1) Notwithstanding section 282, with the approval of the Municipal Board, a money by-law for the issuing of debentures may provide that the principal of the debt be made payable at a fixed date with interest payable annually or semi-annually. 1955, c. 48, s. 31, *part*; 1959, c. 62, s. 9.

(2) The by-law shall provide for the raising in each year during the currency of the debentures, or any set of them, by a special rate on all the rateable property in the municipality of,

- (a) a specific amount, sufficient to pay the interest on the debentures, or any set of them, when and as it becomes due; and

- (b) a specific amount which, with the estimated interest, at a rate not exceeding 3 per cent per annum, capitalized yearly, will be sufficient to pay the principal of the debentures, or of any set of them, when and as it becomes due,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act.

Amounts  
payable to  
Treasurer of  
Ontario

(3) Every money by-law passed under this section shall provide that the annual amounts to be raised under clause b of subsection 2 shall be paid by the treasurer of the municipality to the Treasurer of Ontario in each year during the term of the debentures on or before the date of the debentures and subsections 2 to 7 of section 315 apply to such amounts. 1955, c. 48, s. 31, *part*.

Debentures  
expressed  
in foreign  
currency

**285.—**(1) The authority conferred upon municipalities by this Act and any other general or special Act to borrow or raise money for any purpose and to issue debentures therefor extends to and shall be deemed always to have extended to include power to borrow and raise such money and to issue such debentures expressed and payable in sterling money of Great Britain or dollars of the United States of America for such principal amount as the council may deem necessary to realize the sum required for such purpose.

Annual  
rates

(2) Where under any by-law of a municipality debentures issued thereunder are expressed and made payable in sterling or dollars of the United States of America, the council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon and to meet sinking fund payments or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary 1952, c. 63, s. 11, *part*.

Approval of  
Municipal  
Board

(3) No by-law for the borrowing and raising of money or the issue of debentures expressed and payable in sterling or dollars of the United States of America shall be passed finally until approved by the Municipal Board and sections 67 to 69 of *The Ontario Municipal Board Act* apply *mutatis mutandis* with respect so such approval. 1952, c. 63, s. 11, *part*; 1960, c. 69, s. 10.

R.S.O. 1960,  
c. 274

**286.**—(1) Subject to the limitations and restrictions in this and any other Act, a corporation may incur a debt for the purposes of the corporation whether under this or any other Act, but shall not incur any debt the payment of which is not provided for in the estimates for the current year unless a by-law of the council authorizing it has been passed with the assent of the electors. 1959, c. 62, s. 10 (1).

(2) A corporation shall not be deemed to be incurring a debt the payment of which is not provided for in the estimates of the current year, with respect to any of the following undertakings, works, projects, schemes, acts, matters or things, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by any municipality,

- (a) premium notes given for fire insurance;
- (b) arrangements to provide pensions under paragraph 59 of section 377;
- (c) grants for retiring allowances under section 240;
- (d) agreements for fire protection under paragraph 1 of section 377;
- (e) agreements for area fire protection under paragraph 3 of section 394;
- (f) agreements with respect to court houses and jails under section 363;
- (g) agreements respecting policing of the whole or any part of a municipality by the Ontario Provincial Police Force under section 53 of *The Police Act*; R.S.O. 1960, c. 298
- (h) agreements respecting the establishment of health units under section 35 of *The Public Health Act*; R.S.O. 1960, c. 321
- (i) agreements for sharing the cost of services of officers and employees of municipalities or local boards;
- (j) agreements respecting maintenance and repair of boundary roads under section 426;
- (k) agreements respecting juvenile and family courts under section 11 of *The Juvenile and Family Courts Act*; R.S.O. 1960, c. 201
- (l) agreements respecting isolation hospitals under section 44 of *The Public Health Act*;
- (m) agreements for a term not exceeding five years respecting the provision, maintenance or hiring of an ambulance by a board of health under section 29 of *The Public Health Act* when such agreement has been approved by the council of the corporation;



R.S.O. 1960,  
c. 174

(n) agreements respecting homes for the aged under *The Homes for the Aged Act*;

(o) agreements respecting water supply under paragraph 2 of section 377;

(p) agreements respecting the management and operation of systems and services under paragraph 5 of section 377;

(q) agreements for watering or oiling highways under paragraph 7 of section 377;

(r) agreements respecting bus franchises under paragraph 88 of subsection 1 of section 379;

R.S.O. 1960,  
c. 300

(s) agreements under *The Power Commission Act* with The Hydro-Electric Power Commission of Ontario on its behalf or on behalf of Her Majesty in right of Ontario;

(t) agreements respecting matters of employment of officers, servants and employees of the corporation or a local board thereof. 1957, c. 76, s. 14 (1); 1960, c. 69, s. 11 (1, 2).

#### Exceptions

(3) Subsection 1 does not apply to a by-law passed,

(a) under section 288 or paragraph 52 of subsection 1 of section 379; or

(b) for providing money for any of the purposes mentioned in paragraph 17, 35, 42, 59, 65, 66, 67 or 69 of section 377, or in subclause ii or iii of clause b of section 378, or in paragraph 49, 75, 76 or 77 of subsection 1 of section 379; or

R.S.O. 1960,  
cc. 223, 252

(c) under *The Local Improvement Act* or *The Municipal Drainage Act*; or

(d) by the council of a county, or of a city that forms part of a county for judicial purposes, for providing money for erecting, rebuilding, enlarging, furnishing and equipping the court house and offices to be used in connection therewith, a jail, a jailer's residence and a registry office, and for acquiring such land and buildings as may be necessary or convenient for such purposes; or

(e) by the council of a city or a separated town for providing such sum as is required to pay its share of the debt of the county as agreed upon or determined by arbitration; or

- (f) by the council of a city with the approval of the Municipal Board for providing such sum as may be required to pay its share of the cost of constructing or reconstructing a bridge over any stream that constitutes a dividing line between the city and any other municipality or of reconstructing any existing bridge within the municipality; but the aggregate amount to be provided for all of such purposes in any one year shall not be more than \$10,000 where the city has a population of not more than 20,000; or \$15,000 where the city has a population of more than 20,000 and not more than 100,000; or \$20,000 where the city has a population of more than 100,000; or
- (g) by the council of any municipality with the approval of the Municipal Board for providing such sum or sums as may be required to pay or defray the cost or share of the cost of any work or improvement that, by the terms of any order of the Board of Transport Commissioners for Canada or of the Municipal Board, the municipality is or has been authorized or required to undertake or pay, or of any work or improvement that, in the opinion of the Municipal Board, is or has been rendered necessary or expedient owing to the construction of any work or improvement ordered by either of the said boards; but, where any such work or improvement is or has been merely authorized but not required to be undertaken by the municipality, no sum or sums may be provided hereunder unless the work was undertaken with the approval of the Municipal Board; or
- (h) by the council of an urban municipality for providing such sum as may be required for the purchase of a site in the municipality for an armoury or drill-shed for any militia or volunteer corps having its headquarters in the municipality, if the by-law is passed by a vote of two-thirds of all the members of the council; or
- (i) for providing money for any of the purposes mentioned in section 63 or 65 of *The Public Schools Act*,<sup>R.S.O. 1960, co. 330, 362, 325</sup> or subsection 1 of section 7, section 31 or subsection 5 of section 35 of *The Secondary Schools and Boards of Education Act*, or section 43 of *The Public Libraries Act*; or
- (j) for providing a sum not exceeding \$5,000 for the purpose of making a grant to the University of Toronto; or

(k) under section 470; or

R.S.O. 1960,  
c. 321

(l) for providing any sum or incurring any debt that under *The Public Health Act* may be provided or incurred without the assent of the electors; or

(m) under section 35 of *The Public Health Act*. 1959, c. 62, s. 10 (2); 1960, c. 69, s. 11 (3).

Contracts  
for supply  
of public  
utility

R.S.O. 1960,  
c. 98

**287.**—(1) A municipal corporation with the assent of the electors may enter into a contract for the supply of any service of a public utility as defined in *The Department of Municipal Affairs Act* or of sewage works to the municipal corporation for its use or for resale or to the inhabitants thereof for their use for such term of years as the Municipal Board may approve and may with the like assent renew such contract from time to time for such further term of years as the Municipal Board may approve. 1951, c. 53, s. 11; 1957, c. 76, s. 15; 1959, c. 62, s. 11.

Where  
particular  
areas only  
are bene-  
fited

(2) Where a municipal corporation enters into a contract for the supply of a public utility for its use and such use is confined to a particular area of the municipality, the council may levy a special annual rate on all the rateable property in such area to defray the cost thereof. R.S.O. 1950, c. 243, s. 301 (2).

Special  
power of  
county to  
borrow

**288.**—(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure and over and above any sum that the council is by this or any other Act expressly authorized to borrow without the assent of the electors. R.S.O. 1950, c. 243, s. 302 (1).

Passing of  
by-law

(2) Subject to subsection 3, the by-law shall be passed at a meeting specially called for the purpose of considering it and held not less than six weeks after the first publication of a notice of the day appointed for the meeting which shall be published once a week for four successive weeks, and shall state the amount to be borrowed, and the purpose for which it is to be borrowed.

Adjourned  
meeting

(3) The by-law may be passed at any regular or special meeting to which the consideration of it may be adjourned. R.S.O. 1950, c. 243, s. 302 (3, 4).

When rate  
of interest  
may be  
varied

**289.**—(1) If the Municipal Board is of opinion that the current rate of interest so differs from the rate of interest payable on any municipal debentures that remain unsold or undisposed of that the sale or disposal thereof may substantially decrease or increase the amount required to be



provided under the by-law under which such debentures were issued, the Municipal Board may authorize the council, without the assent of the electors, to pass a by-law to amend such by-law so as to provide for,

- (a) a different rate of interest;
- (b) a change in the amount to be raised annually and, if necessary, in the special assessments and levies;
- (c) such other changes in the by-law or any other by-law as to the Municipal Board may seem necessary to give effect thereto;
- (d) the issue of new debentures to bear interest at the amended rate in substitution and exchange for such first-mentioned debentures; and
- (e) the cancellation of such first-mentioned debentures upon the issue of such new debentures in substitution and exchange therefor.

(2) For the purposes of this section, the hypothecation of debentures under section 325 at any time heretofore or hereafter made does not constitute a sale or other disposal thereof. Hypothecation not a sale under this section

(3) The council may by one by-law authorized under subsection 1 amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder. Consolidation of debentures

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof. R.S.O. 1950, c. 243, s. 303. Special assessments and levies

**290.**—(1) Where part only of a sum of money provided for by a by-law has been raised, the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually. Repeal of by-law, when part only of money raised

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. R.S.O. 1950, c. 243, s. 304. When to take effect

**291.** Subject to section 290, after a debt has been contracted under a by-law, the council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appro- Until debt paid certain by-laws cannot be repealed

priating for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the corporation that has been directed to be applied to such payment. R.S.O. 1950, c. 243, s. 305.

Penalty for neglect of officer to carry out by-law

**292.** Every officer of a corporation, whose duty it is to carry into effect any of the provisions of a money by-law, who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 243, ss. 306, 493.

#### REGISTRATION OF MONEY BY-LAWS

Money by-laws may be registered

**293.—(1)** Within four weeks after the passing of a money by-law, the clerk may register a duplicate original or a copy of it certified under his hand and the seal of the corporation, in the case of a county, in the registry division in which the county town is situate and, in the case of a local municipality, in the registry division in which it is situate or, if the municipality comprises parts of two or more registry divisions, in either of them. R.S.O. 1950, c. 243, s. 307 (1); 1958, c. 64, s. 18 (1).

Application to quash registered by-law, when to be made  
R.S.O. 1960, c. 274

(2) Subject to section 61 of *The Ontario Municipal Board Act*, every by-law, registered in accordance with subsection 1 or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed unless within one month after the registration in the case of by-laws passed under *The Municipal Drainage Act* or *The Local Improvement Act* and, in the case of other by-laws, within three months after the registration an application or action to quash the by-law is made to or brought in a court of competent jurisdiction and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought, is registered in such registry office within such period of three months, or one month, as the case may be. R.S.O. 1950, c. 243, s. 307 (4); 1958, c. 64, s. 18 (3).

Time when by-law to be valid and binding

(3) After the expiration of the period prescribed by subsection 2, if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Quashing part of by-law

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection 2, but

part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, after the expiration of that period is valid and binding according to its terms.

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered and, after such dismissal and the expiration of the period prescribed by subsection 2, if it has not already expired, the by-law, or so much of it as is not quashed, is valid and binding according to its terms. Dismissal of application

(6) Nothing in this section makes valid a by-law that requires but has not received the assent of the electors or a by-law where it appears on the face of it that any of the provisions of subsections 1 and 3 of section 282 have not been substantially complied with. Illegal by-laws not validated

(7) Failure to register a by-law as prescribed by this section does not invalidate it. R.S.O. 1950, c. 243, s. 307 (5-9). Failure to register

## PART XIII

### YEARLY RATES AND ESTIMATES

**294.**—(1) The council of every local municipality in each year shall levy on the whole of the assessment for property and business assessment, according to the last revised assessment roll, a sum equal to the aggregate of the sums required by law to be provided by the council for school purposes and for any board, commission, county or other body. Rates for school purposes and boards, etc.

(2) The council of every local municipality in each year shall levy on the whole of, Rates for general purposes on commercial property and business assessment

(a) the assessment for real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof; and

(b) the business assessment; and

(c) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines and the assessment of telephone and telegraph companies,

according to the last revised assessment roll, a sum equal to the proportion of the aggregate amount of the sums necessary for



the payment within the year of the sums adopted under section 297 for general purposes, not including any sums for the purposes referred to in subsection 1, that the total of the assessments under clauses *a*, *b* and *c* bears to the total assessment for real property and business assessment according to the last revised assessment roll. 1958, c. 64, s. 19, *part*.

Rates for  
general  
purposes on  
residential  
and farm  
property

(3) The council of every local municipality in each year shall levy on the whole assessment for real property, except the assessment for real property mentioned in clauses *a* and *c* of subsection 2, according to the last revised assessment roll, a sum equal to the proportion of the aggregate amount of the sums necessary for payment within the year of the sums adopted under section 297 for general purposes, not including any sums for the purposes referred to in subsection 1, that the total of the assessment for real property, except the assessment for real property mentioned in clauses *a* and *c* of subsection 2, according to the last revised assessment roll, bears to the total assessment for real property and business assessment according to such roll, less the amount of the estimated revenue from payments to be received in that year by the municipality under section 7 of *The Municipal Unconditional Grants Act*. 1958, c. 64, s. 19, *part*; 1959, c. 62, s. 12.

R.S.O. 1960,  
c. 259

Where  
rates to be  
levied on  
full values

**295.**—(1) Notwithstanding any other provision in this Act or any other general or special Act, or in any order of the Municipal Board, or in any municipal by-law or resolution, or in any contract, or other instrument, a municipal rate levied for any of the purposes set out in paragraph 35 of section 377 or in section 378 or for unemployment relief purposes or for any educational purpose included in the county levy shall be levied upon the full value of all the rateable property in the municipality, and no fixed assessment or partial or total exemption from assessment or taxation applies thereto, except as provided in section 4 of *The Assessment Act*. R.S.O. 1950, c. 243, s. 309 (1); 1955, c. 48, s. 34.

R.S.O. 1960,  
c. 23

Fixed as-  
sessment  
exemptions  
to be  
included

(2) The council of a county in levying a rate for any of the purposes set out in subsection 1 shall add to the amount of the equalized assessment of each local municipality within the county any amounts exempted therefrom by reason of a fixed assessment. R.S.O. 1950, c. 243, s. 309 (3).

Federation  
of Agri-  
culture,  
special rate

**296.**—(1) The council of a township may, subject to the approval of the Department, by by-law assess and levy a special rate not exceeding one-half of one mill upon the rate-payers of the township who are entered on the assessment roll as farmers as the annual membership fees of such persons in the Federation of Agriculture. R.S.O. 1950, c. 243, s. 310 (1).

(2) The council of a township may, subject to the approval of the Department, by by-law vary the special rate assessed and levied under subsection 1, but not so as to exceed one-half of one mill. Power to vary special rate

(3) A by-law passed under subsection 1 or 2 remains in force until amended or repealed, and it is not necessary to pass such by-law annually. 1955, c. 48, s. 35. By-law in force until repealed

(4) Any person to whom subsection 1 applies may, within thirty days after delivery of the notice of assessment, in writing notify the clerk that he objects to the assessment provided for in subsection 1, and thereupon the clerk shall amend the assessment roll by striking out the assessment made under subsection 1 in respect of such person and shall write his name or initials against such amendment and deliver a notice of assessment amended accordingly to such person. R.S.O. 1950, c. 243, s. 310 (2); 1953, c. 70, s. 9. How special rate may be avoided

(5) The rate mentioned in subsection 1 shall be assessed, levied and collected in the same manner as local rates and shall be similarly calculated upon the assessments as finally revised and shall be entered in the collector's roll in a special column the heading whereof shall be designated "Federation of Agriculture Membership Fees", but does not form a charge upon land and is not subject to penalty for non-payment. Nature of special rate

(6) The township treasurer shall deposit the sums collected under this section in a special account and shall from time to time upon demand pay such sums to the treasurer of the Federation of Agriculture for the county in which the township is situate. Deposit of sums collected

(7) The township treasurer shall on the date fixed by statute for the return of the collector's roll prepare and forward to the treasurer of the Federation of Agriculture for the county in which the township is situate a list of the names of the ratepayers to whom the by-law mentioned in subsection 1 is applicable and whose rates thereunder have not been collected and thereupon the duty of the township treasurer to collect such rates terminates. Termination of duty to collect

(8) The township treasurer shall deduct from the sums collected such amounts for the services rendered as may be authorized in writing by the treasurer of the Federation of Agriculture for the county in which the township is situate and shall pay such amounts into the general funds of the township. R.S.O. 1950, c. 243, s. 310 (3-6). Payment of services

**297.**—(1) The council of every municipality shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the municipality, including a sum Yearly estimates and contents

sufficient to pay all debts of the corporation falling due within the year and any amounts required to be raised for sinking funds, and including the sums required by law to be provided by the council for school purposes and for any board, commission or other body, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Department may from time to time prescribe. R.S.O. 1950, c. 243, s. 311 (1); 1959, c. 62, s. 13 (1).

Allowances  
to be  
made in  
estimates

(2) In preparing the estimates the council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for the cost of collection, abatement of and discount on taxes and for uncollectable taxes and may provide for taxes that it is estimated will not be collected during the year and for such other reserves within such limits as to type and amount as the Department may approve, but shall not make any allowance for payments to be received during the current year under section 7 of *The Municipal Unconditional Grants Act*. 1959, c. 62, s. 13 (2).

R.S.O. 1960,  
c. 259

Rating  
by-laws

(3) One by-law or several by-laws for levying the rates may be passed as the council may deem expedient.

Form of  
estimates

(4) The Department may prescribe the form of estimates to be prepared by the council and may from time to time vary the same.

Yearly  
estimates  
from other  
boards, etc.

(5) The council may by by-law require that the estimates for the current year of every board, commission or other body for which the council is by law required to levy any rate or provide money shall be submitted to the council on or before the 1st day of March in each year, and that such estimates shall be in the form and give the particulars that the by-law prescribes. R.S.O. 1950, c. 243, s. 311 (3-5).

Reserve  
funds

R.S.O. 1960,  
c. 98

**298.**—(1) Every municipality as defined in *The Department of Municipal Affairs Act* and every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory may in each year, if authorized by a two-thirds vote of the members, provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds, provided that, where the approval of the council is required by law for a capital expenditure or the issue of debentures of or on behalf of a local board, the approval of the council of a provision in the estimates of the local board for a reserve fund shall be obtained.



(2) The moneys raised for a reserve fund established under subsection 1 shall be paid into a special account and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund. Investments and income R.S.O. 1960, c. 408

(3) The moneys raised for a reserve fund established under subsection 1 shall not be expended, pledged or applied to any purpose, other than that for which the fund was established, without the approval of the Department. Expenditure of reserve fund moneys

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection 1. 1951, c. 53, s. 12. Auditor to report on reserve funds

**299.**—(1) Where a contribution is received by a municipal corporation in consideration of the expense incurred or to be incurred by the corporation as a result of a proposed subdivision of land, such contribution shall be used only to meet expenditures for work done within the subdivision or for the benefit or use of the occupiers or subsequent occupiers of the land within the subdivision or to meet expenditures incurred wholly or in part by reason of the subdivision of such land and, where a contribution is made for a specific purpose, it may be used only to meet expenditures for such purpose. Contributions re expenses incurred by corporation re proposed subdivision of land

(2) Such contributions shall be paid into a special account and subsection 2 of section 298 applies *mutatis mutandis* thereto. Special account

(3) Notwithstanding subsection 1, if any of the contributions referred to in subsection 1 are not required or likely to be required for the purposes mentioned in subsection 1, they may, with the approval of the Department, be expended for some other purpose. 1958, c. 64, s. 20. Use for other purposes

**300.**—(1) Where the amount collected falls short of the sum required, the council may direct that the deficiency be made up from any unappropriated fund, or, if there is no such fund, the deficiency may be deducted proportionately from the sums estimated, or from any one or more of them. If the amount collected falls short

(2) Where the amount collected exceeds the estimates, the surplus forms part of the general funds and is at the disposal of the council, unless otherwise specially appropriated. R.S.O. 1950, c. 243, s. 313. When sums collected exceed estimate

**301.** The rates imposed for any year shall be deemed to have been imposed and to be due on and from the 1st day of January of such year unless otherwise expressly provided by the by-law by which they are imposed. R.S.O. 1950, c. 243, s. 314. Rates to be due on January 1st

## PART XIV

## RESPECTING FINANCES

## ACCOUNTS AND INVESTMENTS

Investment  
of moneys  
not im-  
mediately  
required

**302.** Where a municipality has moneys not required immediately by the municipality, such moneys may be invested in Government of Canada or Province of Ontario treasury bills or short-term bonds provided that the treasury bills or short-term bonds become due and payable before the moneys invested therein are required by the municipality and all interest thereon shall be credited to the fund from which the moneys were invested. 1956, c. 50, s. 13.

Application  
of proceeds  
of debentures

**303.**—(1) Subject to subsections 2 and 3, money received by any municipal corporation from the sale or hypothecation of any debentures shall be kept in a separate account and shall be used only for the purposes for which it was raised and shall not be applied towards payment of the current or other expenditure of the municipality. R.S.O. 1950, c. 243, s. 315; 1958, c. 64, s. 21 (1).

Application  
of surplus  
funds raised  
on debentures

(2) Subject to subsection 3, when the amount realized from the debentures is in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied as follows:

- (a) Where the amount is sufficient to redeem one or more debentures of the latest maturity, it shall be applied for that purpose if any such debentures are redeemable.
- (b) Where no such debentures are redeemable or where the amount is not sufficient to redeem a debenture, or where a balance remains after redemption as required by clause *a*, the amount or the balance, as the case may be, shall be applied on the next annual payment of principal and interest on the debentures, and the next levy made for such purpose shall be reduced accordingly. 1951, c. 53, s. 13; 1959, c. 62, s. 14 (1).

Application  
of amounts  
not required  
for purposes  
of debentures

(3) Where the whole or any part of the amount realized from the sale or hypothecation of any debentures is not required for the purpose or purposes for which the debentures were issued, it may be applied to buy back the debentures or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which if raised by taxation would be raised by taxation levied upon the assessment of the same class of rate-payers as would have been levied upon to meet the debt

charges if the amount had been expended for the purpose or purposes for which the debentures were issued. 1958, c. 64, s. 21 (2); 1959, c. 62, s. 14 (2).

**304.—**(1) Every council shall,

Accounts,  
how to be  
kept

- (a) keep a separate account of every debt;
- (b) where the whole of a debt is not payable in the current year, keep in respect thereof,
  - (i) an additional account for the interest, if any, and
  - (ii) an additional account for the sinking fund or the instalments of principal,

distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and

- (c) keep the accounts so as to exhibit at all times the state of every debt and the amount of money raised, obtained and appropriated for the payment of it. 1959, c. 62, s. 15.

(2) The council of a city may by by-law provide and direct that, instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt.

Consolidated  
interest  
account

(3) The council of a city may by by-law provide that, instead of a separate bank account being kept for the sinking fund of every debt that is to be paid by means of a sinking fund, a consolidated bank account may be kept in which there may be deposited the sinking funds of all debts that are to be paid by such means, but which consolidated bank account shall be so kept that the requirements of the sinking fund of every debt are duly provided for. R.S.O. 1950, c. 243, s. 316 (2, 3).

Consolidated  
sinking fund  
account

**305.** If, in any year, after paying the interest and appropriating the necessary sum to the sinking fund or in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or for the sinking fund or in payment of the principal. R.S.O. 1950, c. 243, s. 317.

Application  
of surplus  
money

**306.** Notwithstanding any general or special Act, where the revenue derived from the investment of sinking funds together with other accretions exceeds the aggregate require-

where  
surplus in  
sinking fund



ments of all by-laws applicable thereto and the excess is represented in a consolidated surplus account or other separate funds, the commissioner of finance, the treasurer of the municipality or the trustees of the sinking fund, as the case may be, may with the approval of the council and the Municipal Board apply the amount of such surplus to the sinking fund of each debt proportionately as the amount of the sinking fund of each such debt bears to the aggregate of the sinking funds of all such debts and, notwithstanding sections 309 and 310, the amount of such surplus not so applied may with the approval of the council and the Municipal Board be transferred to the general funds of the municipality. R.S.O. 1950, c. 243, s. 318.

Where  
amount in  
sinking fund  
sufficient

**307.** Notwithstanding any general or special Act, when the amount in a sinking fund is sufficient, with the estimated revenue therefrom, to pay the principal of the debt as it becomes due, the council with the approval of the Municipal Board may not be required to raise or provide any further sum with respect to such debt. R.S.O. 1950, c. 243, s. 319.

Notice of  
appoint-  
ment

**308.** Notice of an appointment for the hearing by the Municipal Board of an application for approval under section 306 or 307 shall be given to such persons and in such manner as the Municipal Board may direct. R.S.O. 1950, c. 243, s. 320.

Money  
levied for a  
sinking fund  
not to be  
diverted

**309.** No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the corporation. R.S.O. 1950, c. 243, s. 321.

Liability of  
members for  
diversion  
of sinking  
fund

**310.**—(1) If the council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Action by  
ratepayer

(2) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

Disqualifica-  
tion

(3) The members who vote for such application are disqualified from holding any municipal office for two years. R.S.O. 1950, c. 243, s. 322.

Statement  
of treasurer  
as to amount  
required  
for sinking  
fund

**311.**—(1) The treasurer of a municipality in which any sum is required by law to be raised for a sinking fund shall prepare and lay before the council in every year, previous to

the striking of the annual rate, a statement showing what amount will be required for that purpose.

(2) For every contravention of this section, the treasurer <sup>Offence</sup> is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. R.S.O. 1950, c. 243, ss. 323, 493.

**312.** If the council neglects in any year to levy the amount <sup>Penalty where council neglects to levy for sinking fund</sup> required to be raised for a sinking fund, each member of the council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. R.S.O. 1950, c. 243, s. 324.

**313.** Subject to sections 314 and 315, the council shall <sup>Investment of sinking fund</sup> invest the sinking fund in such securities as a trustee may invest in under *The Trustee Act* or, with the approval of the Municipal Board, in any debentures of the corporation; provided that the Board shall not approve of any greater portion or percentage than 25 per cent of the total sinking fund being invested at any one time in debentures of the corporation. R.S.O. 1950, c. 243, s. 325. <sup>R.S.O. 1960, c. 408</sup>

**314.** The Municipal Board, on the application of a council, <sup>Redemption of debentures with sinking fund</sup> may direct that any part of the sinking fund, instead of being invested as hereinbefore provided, shall from time to time be applied to the redemption of any of the debentures to the payment of which such sinking fund is applicable, to be selected as provided by the order of the Board, at such value as may be agreed on by the council and the holders of the debentures. R.S.O. 1950, c. 243, s. 326.

**315.—(1)** Where a by-law passed before the 31st day of March, 1955, provided for a sinking fund, the council may by <sup>Payment of sinking funds heretofore established to Treasurer of Ontario</sup> by-law provide that the annual amounts levied for such sinking fund together with the earnings thereon and any future amounts levied therefor shall be paid to the Treasurer of Ontario. 1955, c. 48, s. 36 (1), *amended*.

(2) All money received by the Treasurer of Ontario under this section forms part of the Consolidated Revenue Fund. <sup>Money so received to form part of Consolidated Revenue Fund</sup> R.S.O. 1950, c. 243, s. 327 (2); 1955, c. 48, s. 36 (2).

(3) The Treasurer of Ontario may invest the amount at the credit of a municipality or any part thereof in the debentures of such municipality, to redeem which such sinking funds were paid to the Treasurer. R.S.O. 1950, c. 243, s. 327 (3). <sup>Sinking fund may be invested in the debentures to be redeemed</sup>

Retention of money payable to municipality or school board where municipality in default

(4) Where a municipality or a school board is in default in payment of the amount payable in any year into the sinking fund that under the by-law is to be paid to the Treasurer of Ontario,

- (a) the municipality or school board is liable to a penalty of 5 per cent of the amount in respect of which the municipality or school board is in default; and
- (b) the Treasurer of Ontario may retain a portion of any money payable to the municipality or school board, equal to the amount in respect of which the municipality or school board is in default together with any penalty to which the municipality or school board is liable and shall credit any portion retained together with the penalty to the municipality or school board, as the case may be. 1955, c. 48, s. 36 (3).

Disposition of sinking fund paid to Treasurer

(5) Upon the maturity of the debentures to redeem which a sinking fund has been paid to the Treasurer of Ontario, the amount to the credit of the sinking fund shall be payable out of the Consolidated Revenue Fund upon the order of the Treasurer to the holder of the debentures or to his agent or into a bank or otherwise according to the tenor of the debentures or as the Treasurer may direct. R.S.O. 1950, c. 243, s. 327 (5).

Surplus

(6) Where, in the opinion of the Treasurer of Ontario, there is a surplus standing to the credit of any municipality or school board in the sinking fund held by the Treasurer on its behalf, such surplus shall be used to purchase unmatured debentures for which the sinking fund was established or, if such debentures have been fully paid, the surplus in the sinking fund shall be returned to the municipality or school board and shall form part of the general fund of the municipality or of the school board, as the case may be.

Deficit

(7) Where the amount payable by a municipality or school board toward the retirement of the sinking fund debt, together with the earnings thereon, are insufficient to meet the debentures as they fall due, the municipality or school board, as the case may be, shall make up such deficit out of its general fund, notwithstanding that such debentures may have been issued by the municipality for or on behalf of a local board or commission. 1955, c. 48, s. 36 (4).

Fixing current rate of interest on debentures, etc., held by Treasurer

**316.** The rate of interest to be paid or credited to any municipal corporation by the Treasurer of Ontario upon municipal securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario, either as an investment by the Province or for investment on behalf of a



municipal corporation, shall be the current rate of interest as fixed from time to time by the Lieutenant Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a Provincial loan and then outstanding. R.S.O. 1950, c. 243, s. 328.

**317.** Where a corporation has surplus money derived from "The Ontario Municipalities Fund" or from any other source, which is set apart for educational purposes and invested, as well as any other money held by the corporation for or appropriated by it to such purposes, in the form of securities or loans or applied as authorized by this Act, the council may, with the approval of the Municipal Board, dispose of such investments and apply the proceeds thereof directly or by means of a scheme of amortization in aid of schools in the municipality. R.S.O. 1950, c. 243, s. 329.

Disposition of "The Ontario Municipalities Fund" moneys

**318.** The council of a township may apportion among the public school sections in the township the principal or interest of any investments for public school purposes, according to the salaries paid to the teachers, or the average attendance of pupils in the respective school sections during the next preceding year, or according to the assessed value of the property in the section, or by an equal division among the sections. R.S.O. 1950, c. 243, s. 330.

Apportionment of public school money among school sections in townships

**319.** A member of a council shall not take part in, or be a party to, the investment of any such money, otherwise than as authorized by this Act, and if he does so he is personally liable for any loss sustained by the corporation in respect of the investment. R.S.O. 1950, c. 243, s. 331.

Prohibition as to unauthorized investment

#### COMMISSION OF INQUIRY INTO FINANCES

**320.—(1)** The Lieutenant Governor in Council, upon the recommendation of the Minister of Municipal Affairs, may issue a commission to inquire into the financial affairs of any municipality, or local board thereof, and any matter connected therewith, and the commissioner has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 323

Commission of financial inquiry

(2) A commission may be recommended at the instance of the Department or upon the request in writing of not less than one-third of the members of a council or of not less than fifty ratepayers assessed as owners and resident in the municipality.

When commission may issue

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the com-

Expenses of commission

missioner, shall be fixed and certified by the Minister, and forthwith be paid by the municipality. R.S.O. 1950, c. 243, s. 332.

#### DEBENTURES

Debentures,  
how to be  
executed

**321.**—(1) Subject to subsection 3, a debenture or other like instrument shall be sealed with the seal of the corporation, and signed by the head of the council or by some other person authorized by by-law to sign it, and by the treasurer. R.S.O. 1950, c. 243, s. 333 (1).

Execution  
of coupons

(2) A debenture may have coupons for the interest attached to it, which shall be signed by the treasurer and his signature to them may be written or engraved, lithographed, printed or otherwise mechanically reproduced. R.S.O. 1950, c. 243, s. 333 (2), *amended*.

Execution  
of debentures

(3) The signature of the head of the council of the corporation to all debentures or other like instruments issued by the corporation may be written or engraved, lithographed, printed or otherwise mechanically reproduced and, if such debentures or other like instruments are countersigned in writing by the deputy treasurer, the signature of the treasurer thereon may be written or engraved, lithographed, printed or otherwise mechanically reproduced. 1957, c. 76, s. 18; 1960, c. 69, s. 12.

Full amount  
of debentures  
sold at a  
discount  
recoverable

(4) A debenture may be made payable to bearer or to a named person or bearer and the full amount of it is recoverable notwithstanding its negotiation by the corporation at a discount.

Signature to  
debentures

(5) Any debenture heretofore or hereafter issued is sufficiently signed by the head of the council if it bears the signature, as hereinbefore provided in this section, of the person who was the head of the council either at the date of the debenture or at the time when it was issued. R.S.O. 1950, c. 243, s. 333 (4, 5).

Debentures  
on which  
payment has  
been made  
for one year  
to be valid

**322.** Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the corporation, the by-law and the debentures issued under it are valid and binding upon the corporation. R.S.O. 1950, c. 243, s. 334.

Mode of  
transfer  
may be pre-  
scribed

**323.**—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this corporation, transferable, except by entry by the treasurer in the Debenture Registry Book of the Corporation at the.....  
.....of.....

the treasurer, on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given and shall also enter in such book a memorandum of every transfer of such debenture.

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, which authority shall be retained and filed by the treasurer.

(3) After a certificate of ownership has been endorsed, the debenture is transferable only by entry by the treasurer in the Debenture Registry Book, as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney. R.S.O. 1950, c. 243, s. 335.

**324.** Where a debenture is defaced, lost or destroyed, the council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. R.S.O. 1950, c. 243, s. 336.

**325.—**(1) A council, pending the sale of a debenture, or in lieu of selling it, may by by-law or resolution authorize the head and treasurer to raise money by way of loan on the debenture and to hypothecate it for the loan.

(2) The proceeds of every such loan shall be applied to the purposes for which the debenture was issued, but the lender shall not be bound to see to the application of the proceeds, and, if the debenture is subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan.

(3) Subject to subsection 2, the redemption of a debenture heretofore or hereafter hypothecated shall not be deemed to have prevented and does not prevent the subsequent sale thereof. R.S.O. 1950, c. 243, s. 337.

**326.—**(1) Subject to subsection 2, a corporation shall not make or give any bond, bill, note, debenture or other undertaking for the payment of a less amount than \$50, and any such bond, bill, note or debenture is void.

(2) A debenture issued under the authority of any by-law providing for payment of principal and interest together yearly so computed and apportioned that the sum of both principal and interest is an annual sum of not less than \$50, whether

Debenture  
Registry  
Book

Require-  
ments as to  
endorsing  
certificate  
of ownership

Transfer by  
entry in  
registry  
book

Replace-  
ment of lost  
debentures

Borrowing  
by hypothec-  
ation of  
debentures

Application  
of proceeds  
of loan

Hypotheca-  
tion not to  
prevent sub-  
sequent sale  
of debentures

Debentures,  
etc., not to  
be for less  
sums than  
\$50

Proviso as  
to debentures  
issued for  
sums that in-  
clude principal  
and interest



the debenture is issued with or without coupons, shall be deemed to be a debenture of not less than \$50 within the meaning of this section, and all debentures so issued under such a by-law and otherwise legal are valid. R.S.O. 1950, c. 243, s. 338.

Where  
debentures  
sold at  
premium

**327.**—(1) Where on the sale of the whole or any part of an issue of debentures a premium is derived and moneys in addition to the principal sum of the debentures are required for the purpose or purposes for which the debentures were issued, the premium shall be applied to such purpose or purposes.

Idem

(2) Where the whole or any part of the premium is not required for the purpose or purposes for which the debentures were issued, the amount of the premium or of the part not so required shall be applied as follows:

- (a) Where the amount is sufficient to redeem one or more debentures of the latest maturity, it shall be applied for that purpose.
- (b) Where the amount is not sufficient to redeem a debenture or where a balance remains after redemption as required by clause *a*, the amount or the balance, as the case may be, shall be applied on the first annual payment of principal and interest on the debentures, and the levy made in the first year for such purpose shall be reduced accordingly. R.S.O. 1950, c. 243, s. 339 (1, 2).

Deficit on  
sale of  
debentures

(3) Where on the sale of the whole or any part of an issue of debentures of a municipality a deficit is sustained and the amount of the deficit or any part thereof is required for the purpose or purposes for which the debentures were issued and was not fully estimated and provided for in the amount of the debenture issue, the amount of the deficit or the part so required,

- (a) shall be added to the sum to be raised for the first annual payment of principal and interest on the debentures and the levy made in the first year for such purpose; or
- (b) shall be added in equal portions to the sum to be levied for the annual payment of principal and interest on the debentures in each year commencing with the first year in which such levy is made and annually thereafter over such period of years not exceeding five years in all as may be approved by the Municipal Board,

and the levy made in each of such years shall be increased accordingly. 1958, c. 64, s. 22.

**328.** When a municipal corporation intends to borrow money on debentures under this or any other Act, the council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. R.S.O. 1950, c. 243, s. 340.

#### TEMPORARY LOANS

**329.—(1)** A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note such sums as the council may deem necessary to meet, until the taxes are collected, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) The amount that may be borrowed in any year for the purposes mentioned in subsection 1 shall not, except with the approval of the Municipal Board, exceed 70 per cent of the total amount of the estimated revenues of the corporation as set forth in the estimates adopted for the year. R.S.O. 1950, c. 243, s. 341 (1, 2).

(3) The amount that may be borrowed at any one time for the purposes mentioned in subsection 1, together with the total of any similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

(4) At the time, after the 30th day of June in any year, that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the by-law authorizing the borrowing and a statement showing the nature and amount of the estimated revenues of the current year not yet collected or, where the estimates for the year have not been adopted, a statement showing the nature and amount of the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year, and also showing the total of any amounts borrowed under this section that have not been repaid. 1958, c. 64, s. 23 (1).

(5) Until such estimates are adopted, the limitations upon borrowing prescribed by subsections 2 and 3 shall temporarily be calculated upon the estimated revenues of the corporation

as set forth in the estimate adopted for the next preceding year. R.S.O. 1950, c. 243, s. 341 (3); 1958, c. 64, s. 23 (2).

Exclusion from estimated revenues

(6) For the purposes of this section, estimated revenues do not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets. R.S.O. 1950, c. 243, s. 341 (4); 1958, c. 64, s. 23 (3).

Lender not bound by application of borrowings, etc.

(7) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

Execution of promissory notes

(8) Any promissory note made under the authority of this section shall be executed in the same manner as a debenture as provided in subsection 1 of section 321, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Creation of charge

(9) The council may by by-law provide or authorize the head and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the corporation for the current year and for any preceding years as and when such revenues are received; provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

Execution of agreements

(10) Any agreement entered into under subsection 9 shall be sealed with the corporate seal and signed by the head and treasurer.

Penalty for excess borrowings

(11) If the council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years.

Penalty for misapplication of revenues by council

(12) If the council authorizes the application of any revenues of the corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Penalty for misapplication of revenues by officials

(13) If any member of the council or officer of the corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Saving clauses as to penalties

(14) Subsections 11, 12 and 13 do not apply,

(a) to a council or any member of a council or officer of a corporation acting under an order or direction issued



or made under the authority of Part III of *The R.S.O. 1960, Department of Municipal Affairs Act*; or c. 98

- (b) in any case where application of the revenues of the corporation is made with the consent of the lender in whose favour a charge exists. R.S.O. 1950, c. 243, s. 341 (5-12).

**330.** Where by this or any other Act power is conferred on a corporation to borrow money, it includes, pending the issue and sale of the debentures, the power to agree with a bank or person for temporary advances from time to time to meet expenditures incurred. R.S.O. 1950, c. 243, s. 342. Temporary advances

**331.** When a corporation guarantees the payment of the principal or interest of any bonds or debentures and default is made in payment of the principal or interest by the person primarily liable therefor, the council of the corporation may agree with any bank or person for temporary advances to meet the amount in default in any one year pending the collection of such amount by a rate on all the rateable property in the municipality or, where the guarantee is by or on behalf of a section or portion of a township, by a rate on all the rateable property in such section or portion. R.S.O. 1950, c. 243, s. 343. Power to borrow to meet guarantee of debentures

## PART XV

### ACQUISITION OF LAND AND COMPENSATION

#### LAND TAKEN OR INJURIOUSLY AFFECTED

**332.** In this Part,

- (a) "expropriation" means taking without the consent of the owner, and "expropriate" and "expropriating" have corresponding meanings;
- (b) "judge" means a judge of the county or district court of the county or district in which the land or any part of it is situate;
- (c) "owner" includes a mortgagee, lessee, tenant, occupant, and a person entitled to a limited estate or interest in land, trustee in whom land is vested, a committee of the estate of a mentally incompetent person, an executor, an administrator, and a guardian. R.S.O. 1950, c. 243, s. 344; 1960, c. 69, s. 13. Interpretation

**333.**—(1) The council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting and repairing Power to acquire or expropriate land

buildings thereon, and for making additions to or alterations of such buildings, and may sell or otherwise dispose of the same when no longer so required. R.S.O. 1950, c. 243, s. 345 (1); 1954, c. 56, s. 19.

Taking more  
land than  
required

(2) Where in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

Land to be  
described  
in by-law,  
etc.

(3) A by-law for entering on or expropriating land shall contain a description of the land and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated. R.S.O. 1950, c. 243, s. 345 (2, 3).

Power to  
use excess  
land by way  
of compensa-  
tion to  
owners

**334.**—(1) Any land acquired or taken by a corporation in the exercise of the powers conferred by any general or special Act in excess of the land actually required for the opening, widening, extension or straightening of a highway may be used in or towards making compensation by way of restitution to the owner of other land taken for or in connection with the work, and the corporation may lawfully exercise such powers in pursuance of an agreement to that effect with such owner or with a view to making or proposing to make such an agreement.

Offer to  
transfer  
excess land  
by way of  
compensa-  
tion to  
be consid-  
ered by arbi-  
trator;  
award to be  
binding

(2) If in any arbitration proceeding to fix compensation for land taken by it the corporation offers to transfer or assure additional or other land to the owner by way of enlarging the remainder of his parcel or in substitution for his parcel, such offer shall be taken into account by the arbitrator and dealt with in the award and, if the award is based on such transfer being made, the offer is binding on the corporation in the terms fixed by the award (subject to any right of appeal) and the offer and final award together constitute an agreement between the parties, and the owner is entitled to have such additional or substituted land assured him in accordance therewith.

Power of  
Municipal  
Board to  
order per-  
formance of  
agreement

(3) In such case, upon the application of the corporation or of an interested party, the Municipal Board may make such orders to compel the taking by the corporation of such additional land for the purposes of the agreement and concerning the compensation payable thereon and as to the vesting of the title to the land in accordance with the agreement as may be necessary to protect and enforce the rights of all parties interested. R.S.O. 1950, c. 243, s. 346.

**335.** The determination of a council as to the time when, the manner in which, the price for which or the person to whom any property of the corporation that the council may lawfully sell, shall be sold, is not open to question, review, or control by any court, if the purchaser is a person who may lawfully buy and the council acted in good faith. R.S.O. 1950, c. 243, s. 347.

**336.**—(1) At any time after the passing of a by-law for entering on or expropriating land, the corporation, by leave of the judge and upon payment into the Supreme Court of a sum sufficient, in the opinion of the judge, to satisfy the compensation, may enter upon the land and, if any resistance or forcible opposition is made to its so doing, the judge may issue his warrant to the sheriff of the county or district in which the land lies to put the corporation in possession and to put down such resistance or opposition which the sheriff, taking with him sufficient assistance, shall accordingly do.

(2) Leave of the judge and payment into Court is not necessary where the land is being expropriated for or in connection with the opening, widening, protecting from the erosion of streams or water, altering or diverting a highway unless upon application by the owner a judge of the Supreme Court otherwise directs. R.S.O. 1950, c. 243, s. 348.

**337.**—(1) Where land is expropriated for the purposes of a corporation, or is injuriously affected by the exercise of any of the powers of a corporation under the authority of this or any general or special Act, unless it is otherwise expressly provided by such general or special Act, the corporation shall make due compensation to the owner for the land expropriated and for any damage necessarily resulting from the expropriation of the land or, where land is injuriously affected by the exercise of such powers, for the damages necessarily resulting therefrom, beyond any advantage that the owner may derive from any work for the purposes of or in connection with which the land is injuriously affected.

(2) The amount of the compensation, if not mutually agreed upon, shall be determined by arbitration.

(3) Where fencing or additional fencing will become necessary, owing to land having been expropriated, the cost of it shall be included in the compensation.

(4) Where part only of the land of an owner is expropriated, there shall be included in the compensation a sum sufficient to compensate him for any damages directly resulting from severance. R.S.O. 1950, c. 243, s. 349.



"DEFERRED" WIDENING, ETC., OF HIGHWAY

Interpre-  
tation

R.S.O. 1960,  
c. 223

**338.**—(1) In this section, "highway" includes "street" as defined in *The Local Improvement Act*. R.S.O. 1950, c. 243, s. 350 (1), *part*.

By-law may  
fix future  
date for  
widening,  
etc.

(2) A by-law of the council of a local municipality for establishing or laying out, or for extending, widening or diverting, a highway or part of a highway may provide that the corporation shall not enter immediately on the land required to be taken or proceed to carry out the work but that the same shall be deferred until a day named therein not less than three and not more than ten years after the date of the passing of the by-law. R.S.O. 1950, c. 243, s. 350 (1); 1952, c. 63, s. 14, *part*.

Entry  
deferred  
accordingly

(3) Subject to subsection 8, the corporation shall not enter on any land required to be taken before the day named in such by-law unless by leave of the judge or by order of the Municipal Board made as hereinafter provided.

By-law not  
to be repeal-  
ed except  
with leave of  
Municipal  
Board

(4) The by-law shall be binding upon the corporation and shall not be repealed or altered except by a vote of two-thirds of the members of the council and with leave of the Municipal Board, such leave to be granted the corporation only for exceptional reasons not apparent or existing when the by-law was passed and after hearing the owners of the lands proposed to be taken and on such terms as the Board may determine in regard to the revesting of the land taken and the payment to each owner of the damages, if any, sustained by him in consequence of the passing of the by-law or of so much of the by-law as is proposed to be altered and his costs.

Registration  
of plan in  
advance

(5) Where the council proposes to pass a by-law under this section, it may register in the proper registry office a draft plan of the contemplated work with any supplementary memorandum that may be needed to show its substantial features and to furnish adequate local description to comply with *The Registry Act*, and the registrar shall enter the same on the abstract index for each parcel of land required to be taken; but, if the by-law is not passed within six months after such registration, the registration shall be deemed of no effect and the corporation shall forthwith cause a certificate signed by the mayor or reeve and clerk and sealed with the corporation's seal, stating that no by-law was passed, to be registered in like manner in the registry office.

R.S.O. 1960,  
c. 348

Land taken  
shall vest  
at once in  
corporation  
on conditions

(6) After the passing of the by-law and subject to any order made by the Municipal Board under subsection 4, the land required to be taken for the work shall be deemed to be vested in the corporation for the purposes of a highway subject to the right of the owner or his assigns to remain in the possession

and enjoyment thereof without impeachment of waste either wanton or permissive until entry by the corporation as aforesaid and to utilize the land and to erect buildings thereon during his or their occupancy (subject to the provisions of subsections 13 and 14 as to compensation in respect of such buildings).

(7) After the land is vested in the corporation, it shall for all purposes of assessment and taxation, whether under such by-law or otherwise, be deemed to be a component part of the highway; but, where a building stands partly on land taken for the work and partly on adjoining land, it shall be assessed on the assessment roll of the municipality in the same manner as if it stood entirely on such adjoining land.

(8) Where it is shown to the satisfaction of the Municipal Board upon application made by the corporation before the day fixed for entry by the by-law that in view of financial conditions it is desirable that the day fixed for entry by the by-law should be further deferred, the Municipal Board may further defer the time for entry by the corporation on the land until a day not less than one year and not more than three years after the day fixed for entry by the by-law, but so that the total time for which entry is deferred by the provisions of the by-law and the order of the Municipal Board shall not exceed ten years, upon such terms and conditions as the Board may deem proper, and upon such order being made the day fixed by the Municipal Board as the day for entry shall thereafter be deemed to be the day fixed in the by-law for entry.

(9) At the date named in the by-law for entry, it is the duty of the corporation to enter and proceed with diligence and dispatch to remove all buildings and obstructions from the land taken for the work and to put it in fit and proper condition and make it available for use as a highway.

(10) The by-law may be passed without the assent of the electors and without regard to *The Local Improvement Act* and shall express the intention of the council as to the corporation's portion of the cost thereunder, and the council may thereafter by a majority vote pass a by-law for undertaking the work as a local improvement and such by-law has the same force and effect as if passed under section 8 of *The Local Improvement Act* and the provisions of that Act apply thereafter to such work *mutatis mutandis* and the owners of the lots liable to be specially assessed thereunder have all the rights and remedies in relation thereto that are given them by such Act so far as they are not inconsistent with the other provisions of this section, but the Municipal Board has no power under section 6 or 8 of such Act, either by making an order or by withholding its approval to prevent the due carrying out of the work.

Assessment  
of land  
when vested

Application  
by corpo-  
ration to  
Municipal  
Board to  
further  
defer entry

Corporation  
to enter at  
date named

Subsequent  
by-law for  
undertaking  
work as a  
local im-  
provement

R.S.O. 1960,  
c. 223

Compensation, when payable

(11) Except as may be otherwise ordered by the Municipal Board under subsection 14, compensation payable under this section does not become payable until the day fixed in the by-law for entry.

Limitations as to compensation

(12) The compensation shall be limited to,

- (a) the market value of the land itself exclusive of and without regard to any buildings or improvements thereon;
- (b) the value of the buildings and improvements;
- (c) damages occasioned by disturbance to any business established previous to the passing of the by-law to which the general principles of compensation apply;
- (d) damages to land, buildings and improvements injuriously affected by the exercise of any of the powers conferred by this section. R.S.O. 1950, c. 243, s. 350 (2-11).

Interpretation

(13) (a) In this subsection, "land" means the land itself exclusive of and without regard to any buildings or improvements thereon. R.S.O. 1950, c. 243, s. 350 (13), cl. (a).

Fixing compensation for land apart from buildings

(b) Notwithstanding that entry is deferred, the corporation or the owner may proceed at once after the passing of the by-law to determine or have determined the compensation, if any, payable hereunder in respect of any land. R.S.O. 1950, c. 243, s. 350 (13), cl. (b); 1958, c. 64, s. 24 (2).

Value

(c) The value of the land shall be fixed as of the date of the registration of the draft plan or, if no plan is registered, as of the date of the passing of the by-law. R.S.O. 1950, c. 243, s. 350 (13), cl. (c).

Fixing compensation for buildings

(14) (a) Compensation shall be allowed in respect of buildings and improvements as they may exist at the date fixed for entry. R.S.O. 1950, c. 243, s. 350 (14), cl. (a); 1958, c. 64, s. 24 (4).

As to buildings erected after passing of by-law

(b) In respect to buildings or improvements erected or made after the date of the registration of the draft plan of the work or, if no plan is registered, after the date of the passing of the by-law, the compensation or damages shall be allowed and payable to the extent only of three-quarters of the proper cost of a structure one storey in height of such temporary character, conformable to the existing building by-laws and regulations, as may be reasonable in view of the limited time that is to elapse before entry. R.S.O. 1950, c. 243, s. 350 (14), cl. (b).

Relief in special cases

(15) The Municipal Board may make an order at any time granting relief in the following cases: first, where part of an



owner's lot is taken for the work and special circumstances exist in the matter of the location, size or shape of the lot that render it inequitable and unjust that the compensation to be allowed for buildings or improvements to be thereafter erected thereon should be limited as provided in subsection 13 and, secondly, where the work is deferred until a day more than five years after the date of the passing of the by-law and the whole of the owner's lot is taken or so much of it as to render the remainder, by reason of its size or shape, unfit for building purposes, and the Board in the first case may approve of plans and specifications for appropriate buildings or improvements and fix the basis of compensation to be made therefor, and in the second case it may direct the corporation to enter and make compensation to the owner at an earlier day than the day named in the by-law or to make an immediate or periodical payment to the owner to compensate him for the delay, or it may make such further or other order in either case as may be required to afford due compensation to the owner for the exceptional and peculiar damage he would suffer by reason of the special circumstances affecting his lot.

(16) The council may agree with any bank or person for temporary advances to meet any costs or liabilities incurred under the by-law prior to the completion of the work. R.S.O. 1950, c. 243, s. 350 (15, 16). <sup>Temporary advances</sup>

**339.**—(1) The council of a local municipality, as a preliminary step to the widening of a highway or any part thereof, may pass by-laws fixing as a building line the minimum distance from the limit of the highway at which buildings may thereafter be erected or placed, and prohibiting the erection or placing of any building or part thereof closer to the limit of the highway than the distance fixed by the by-law. <sup>Prescription of building line</sup>

(2) A by-law under subsection 1 shall not come into force until it is approved by the Municipal Board, and when so approved shall not be amended or repealed except with the approval of the Board and on such terms as the Board may determine. <sup>Approval of Municipal Board</sup>

(3) The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of its application to the Municipal Board for approval of any by-law passed under this section. <sup>Notice</sup>

(4) The building line fixed by the by-law shall not be distant more than twenty feet from the limit of the highway. <sup>Maximum building line</sup>

(5) Notwithstanding subsection 4, for the purpose of carrying out an official plan in effect under *The Planning Act* or for the purpose of improving the appearance or utility of <sup>Exceptions R.S.O. 1960 c. 296</sup>

the highway, the Municipal Board may authorize the establishment of the building line at a distance greater than twenty feet from the limit of the highway in respect of any part or parts of the highway.

Building  
line need  
not be  
uniform

(6) The distance between the limit of the highway and the building line need not be the same for all parts of the highway or part of a highway in respect of which the by-law is passed.

Exceptions  
from opera-  
tion of  
by-law

(7) A by-law passed under subsection 1 shall not prevent the erection or placing closer to the limit of the highway than the distance fixed in the by-law of any one-storey shop or building front of such temporary character, conformable to the existing by-laws and regulations, as may be reasonable.

Compulsory  
acquisition  
of land

(8) After the by-law has been passed and approved by the Municipal Board,

(a) if three-quarters of the frontage measured along one limit of the highway between two streets intersecting the highway is clear of buildings, other than one-storey shop or building fronts, back to the building line; or

(b) if, at any time after the expiration of ten years from the date of the by-law, a majority of the owners of the land fronting and abutting on one limit of the highway between two streets intersecting the highway so petition in writing,

the municipality shall acquire the land fronting and abutting on that limit of the highway and lying between the two streets intersecting the highway and between the limit of the highway and the building line.

Board may  
authorize  
delay

(9) Notwithstanding that the conditions set out in clause a of subsection 8 have been fulfilled, the Municipal Board may from time to time authorize the municipality to delay its acquisition of the land in question, but no such authority shall be given so as to delay the acquisition beyond ten years from the date of the by-law.

Conveyance  
to munici-  
pality when  
land clear

(10) Where that part of the land of any owner lying between the limit of the highway and the building line is or becomes clear of buildings and the owner offers to convey that part to the municipality, the municipality shall accept the conveyance and is liable for compensation to the owner or the persons entitled thereto to the same extent as if the by-law had been passed to widen the highway.

Limitation  
on compen-  
sation

(11) In determining the compensation payable by the municipality for the taking of lands for the widening of a portion of a highway in respect of which a building line has been fixed under this section, the municipality is not liable to

pay compensation for or in respect of any building erected in contravention of the by-law fixing the building line.

(12) Notwithstanding any other provision in this Act or any other Act and except as provided in subsection 10, the municipality is not liable to pay any compensation or damages by reason of having passed a by-law under subsection 1. By-law not to give rise to claims

(13) Every by-law under this section, when approved by the Municipal Board, shall be registered in the proper registry office and when tendered for registration shall have attached thereto a plan or plans and any supplementary memorandum that may be needed to furnish adequate local description to comply with *The Registry Act*, prepared by an Ontario land surveyor and showing the position of the building line in relation to the limit of the highway. 1951, c. 53, s. 14. Registration of by-law; plan of work  
R.S.O. 1960, c. 348

#### GENERAL PROVISIONS AS TO COMPENSATION

**340.**—(1) Except where the person entitled to the compensation is an infant, a mental incompetent or a person of unsound mind, a claim for compensation for damages resulting from his land being injuriously affected shall be made in writing with particulars of the claim within one year after the injury was sustained or after it became known to such person, and, if not so made, the right to compensation is forever barred. Claim for compensation, when and how to be made

(2) In the case of an infant, a mental incompetent or a person of unsound mind, the claim shall be so made within the same period or within one year after he ceased to be under the disability, whichever is the longer, or, in case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation is forever barred. Case of infant, mental incompetent, etc.

(3) This section does not apply where the expropriating by-law provides for acquiring an easement or right in the nature of an easement, and the damages arise from the exercise of such easement or right. R.S.O. 1950, c. 243, s. 351. Exception as to acquiring easement

**341.**—(1) If the owner of the land is unknown or cannot be found, or if there is no person competent to contract with the corporation for the sale to it of the land and to convey it to the corporation, the judge may, on the application of the corporation, appoint a person to act for the owner, and all acts done, contracts made and conveyances executed by such person are as valid and effectual as if the same were done, made or executed by the owner and he were of full age and competent to do the act, make the contract or execute the conveyance. Appointment of person to act for owner who is unknown or cannot be found



Payment of  
compensa-  
tion into  
Court

(2) In the cases provided for by subsection 1, the amount of the compensation agreed upon or awarded shall be paid into the Supreme Court, with the privity of the Accountant of the Supreme Court, subject to further order. R.S.O. 1950, c. 243, s. 352.

Interest on  
compensa-  
tion

**342.** The arbitrator may allow interest on the compensation at the rate of 5 per cent per annum from a day fixed by him. R.S.O. 1950, c. 243, s. 353.

Compensa-  
tion to stand  
in the stead  
of land

**343.** The compensation stands in the place of the land and is subject to the limitations and charges, if any, to which the land was subject, and any claim to or encumbrance upon the land, or any part of it, as against the corporation, is converted into a claim upon the compensation. R.S.O. 1950, c. 243, s. 354.

Interest on  
compensa-  
tion

**344.**—(1) Where it is made to appear to a judge of the Supreme Court that for any reason it is proper that the compensation should be paid into court, the judge may give leave to the corporation to pay it into court, with interest at the rate of 6 per cent per annum for six months.

Notice of  
payment  
into court

(2) Notice of the payment into court, and calling upon all persons entitled to the land, or any part of it, to file their claims to the compensation, or any part of it, shall be published in such newspaper and for such time as the judge may direct.

Claims, how  
determined

(3) All claims to or upon the compensation shall be determined by a judge of the Supreme Court or in such manner as he may direct.

Costs

(4) The costs of the proceedings, including allowances to witnesses, shall be paid by the corporation or by such person as the judge may direct.

Refund of  
interest

(5) If an order for distribution is obtained in less than three months from the payment into court, the judge may direct a proportionate part of the interest to be returned to the corporation.

Payment  
into court  
to discharge  
corporation

(6) The payment into court discharges the corporation from all liability in respect of the compensation. R.S.O. 1950, c. 243, s. 355.

Order vest-  
ing land in  
corporation

**345.** After payment into court of the compensation, a judge of the Supreme Court may, upon the application of the corporation, make an order vesting in the corporation the land in respect of which the compensation was payable, and the order has the same effect as a vesting order made under *The Judicature Act*. R.S.O. 1950, c. 243, s. 356.

R.S.O. 1960,  
c. 197

**346.**—(1) Where the council of a city or town is desirous of entering upon any work or undertaking for which land is required to be expropriated or in the execution of which land may be injuriously affected, the council may file in the office of the clerk plans and specifications of the work or undertaking, which shall show the names of the owners of the land to be affected, the land to be expropriated and the nature and extent of any easement or right in the nature of an easement to be acquired, or certified copies of such plans and specifications. Taking, etc., lands for public work

(2) The clerk shall cause to be served upon every owner of land to be expropriated, or which may be injuriously affected, a notice of the council's intention to proceed with the work or undertaking, and to expropriate the land necessary therefor, and that such plans and specifications may be inspected at his office, and that any claim for compensation on account of the land being injuriously affected must be filed in his office, with a statement of the amount claimed, within sixty days, or, if the person served resides out of Ontario, within ninety days, from the service of the notice. Service of notice of intention to construct works, etc.

(3) If a claim is not so filed within the period mentioned in subsection 2, it is forever barred unless, upon application to a judge of the Supreme Court made not later than one year from the service of the notice and after seven days notice to the corporation, the judge allows the claim to be made. Filing of claim

(4) Either party may appeal from the decision of the judge to the Court of Appeal. Claim not filed to be barred

(5) Nothing in this section has the effect of barring a claim, if the plans and specifications filed do not disclose or sufficiently disclose that the injury in respect of which the claim is made will be caused by the work or undertaking. Claims not barred where plans insufficient

(6) This section does not apply to the claim of an infant, a mental incompetent or a person of unsound mind, or where the expropriating by-law provides for acquiring an easement or right in the nature of an easement and the land is injuriously affected by the exercise of such easement or right. R.S.O. 1950, c. 243, s. 357. For claims of infants, and mental incompetents, etc.

## PART XVI

### ARBITRATIONS

**347.**—(1) Except in cases where there is an official arbitrator, the senior judge of the county or district court shall be sole arbitrator unless he under his hand requests a junior judge or the judge or junior judge of some other county or district to act for him, in which case the judge so designated shall be sole arbitrator. Senior judge as sole arbitrator

R.S.O. 1960,  
c. 250  
to apply

(2) The provisions of *The Municipal Arbitrations Act* as to procedure and appeals apply to arbitrations held and awards made by the judge. R.S.O. 1950, c. 243, s. 358.

Municipal  
Board as  
arbitrator

**348.**—(1) Notwithstanding the other provisions of this Act or any other Act, the council may by by-law designate the Municipal Board as the sole arbitrator, in which case the Municipal Board has and may exercise all the powers and duties of an official arbitrator. R.S.O. 1950, c. 243, s. 359.

Procedure,  
application  
of  
R.S.O. 1960,  
c. 274

(2) Except as provided in subsection 3, *The Ontario Municipal Board Act* applies to proceedings taken before the Municipal Board under this section.

Appeals,  
application  
of  
R.S.O. 1960,  
c. 250

(3) The provisions of *The Municipal Arbitrations Act* with respect to appeals apply to awards made by the Municipal Board under this section. 1957, c. 76, s. 19.

Award not  
to be binding  
in certain  
cases unless  
adopted by  
by-law

**349.**—(1) Where the arbitration is as to compensation, if the expropriating by-law did not authorize or profess to authorize any entry on or use to be made of the land before the award, except for the purpose of survey, or if the by-law gave or professed to give such authority but the arbitrator by his award finds that it was not acted upon, the award is not binding on the corporation unless it is adopted by by-law within three months after the making of the award or after the determination of any appeal therefrom, and, if it is not so adopted, the expropriating by-law shall be deemed to be repealed and the corporation shall pay the costs between solicitor and client of the reference and award and shall also pay to the owner the damages, if any, sustained by him in consequence of the passing of the by-law, and such damages, if not mutually agreed upon, shall be determined by arbitration and, if the by-law has been registered or a caution in respect of it has been filed, the corporation shall forthwith cause a certificate signed by the mayor and clerk and sealed with the corporation's seal, stating that the by-law stands repealed, to be registered in the proper registry office or the caution to be removed, as the case may be.

Power to  
repeal by-law  
before award

(2) Where the expropriating by-law did not authorize or profess to authorize any entry on or use to be made of the land, except for the purpose of survey, or if the by-law gave or professed to give such authority but it has not been acted on, the council may, at any time before the making of the award and whether or not arbitration proceedings have been begun, repeal the by-law and, if that is done, the repealing by-law, if the expropriating by-law has been registered, shall be registered forthwith by the corporation in the proper registry office, or, if the land is under *The Land Titles Act* and a caution has

R.S.O. 1960,  
c. 204



been filed, the corporation shall forthwith remove the caution, and the costs and damages mentioned in subsection 1 shall be paid by the corporation as therein provided. R.S.O. 1950, c. 243, s. 360.

## PART XVII

### ACTIONS BY AND AGAINST MUNICIPAL CORPORATIONS

**350.** Where a duty, obligation or liability is imposed by statute upon any person in favour of a municipal corporation, or the inhabitants, or some of the inhabitants, of a municipality, or where a contract or agreement is entered into that imposes such a duty, obligation or liability, the corporation has the right by action to enforce it and to obtain as complete and as full relief and remedy as could be obtained in an action by the Attorney General, as plaintiff, or as plaintiff on the relation of any person interested, or in action by such inhabitants or one or more of them, on his or their own behalf, or on behalf of himself or themselves and of such inhabitants. R.S.O. 1950, c. 243, s. 361.

Right of action of municipal corporation to enforce agreements, etc.

**351.** An action shall not be brought for anything done under a by-law, order or resolution of a council that is invalid, in whole or in part, until one month after the by-law, order or resolution, or so much of it as is invalid, has been quashed or repealed, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. R.S.O. 1950, c. 243, s. 362.

Corporation to be liable for acts done under illegal by-law

## PART XVIII

### RESPECTING THE ADMINISTRATION OF JUSTICE

#### POLICE OFFICE IN CITIES AND TOWNS

**352.** The council of every city and town shall establish and maintain therein a police office. R.S.O. 1950, c. 243, s. 363.

Police office

**353.** The council shall provide all necessary and proper accommodation, fuel, light, stationery and furniture for the police office, and for the officers connected with it. R.S.O. 1950, c. 243, s. 364.

Accommodation, etc., for police office

#### COURT HOUSES, JAILS, ETC.—ESTABLISHMENT

**354.** Until otherwise provided by law, the existing county and district towns shall continue to be the county and district towns of the counties and districts in which they are respectively situate. R.S.O. 1950, c. 243, s. 365.

Existing county and district towns continued

County to  
provide  
court house  
and jail

Sufficient  
for county  
and city

**355.**—(1) The corporation of every county shall provide and maintain a county court house and a county jail.

(2) The court house and the jail shall be sufficient for the purposes of every city and separated town that forms part of the county for judicial purposes as well as for the purposes of the county.

Maintenance  
of jail  
R.S.O. 1960,  
c. 195

(3) The jail shall be provided and maintained in conformity with *The Jails Act* and to the satisfaction of the Lieutenant Governor in Council.

Saving

(4) Subsection 2 does not apply to the court house if the city has a court house of its own, or to the jail if the city has a jail of its own. R.S.O. 1950, c. 243, s. 366.

Erection of  
court house  
or jail by  
county or  
city

**356.**—(1) The council of a county or of a city may pass by-laws for erecting, enlarging or improving a court house or jail, and shall keep the same in repair and provide the food, fuel and other supplies required therefor. R.S.O. 1950, c. 243, s. 367 (1).

County  
acquiring  
land in any  
municipality  
including  
city or  
separated  
town

(2) The corporation of a county may acquire land within any municipality in the county including a city or separated town, whether such city or separated town is the county town or not, for the purpose of erecting and may erect thereon a court house, a jail and buildings for use as a county hall and for offices for the county officials. R.S.O. 1950, c. 243, s. 367 (2); 1960, c. 69, s. 14.

Use of  
county jails  
and court  
houses by  
city or  
separated  
town

**357.** The court house and the jail of the county in which a city or separated town is situate, except where the city has provided one for itself, is the court house or jail, as the case may be, of the city or town, and the jailer shall receive and safely keep, until duly discharged, all persons committed to the jail by any competent authority of the city or town. R.S.O. 1950, c. 243, s. 368; 1958, c. 64, s. 25.

#### CARE OF COURT HOUSES AND JAILS

Custody  
of jails

**358.**—(1) The jailer has the care of the county jail, jail offices and yard and jailer's apartments. R.S.O. 1950, c. 243, s. 369 (1); 1958, c. 64, s. 26.

Appoint-  
ment of  
jailer, etc.

(2) The Lieutenant Governor in Council may appoint the jailer, jail surgeon and other jail employees, and fix their salaries which shall be paid by the county or city, as the case may be.

Bonus

(3) The Lieutenant Governor in Council may authorize the county or city, as the case may be, to pay to the jailer and jail employees, other than the jail surgeon, such bonuses as the Lieutenant Governor in Council may prescribe.

(4) The county or city shall establish a system of credits Sick leave credits and payments for regular attendance of the jailer and jail employees, and the Lieutenant Governor in Council may make regulations prescribing the system to be established.

(5) For the purposes of *The Workmen's Compensation Act*, Workmen's compensation every jailer and jail employee shall be deemed to be an employee of the county or city, as the case may be. R.S.O. 1960, c. 437

(6) For the purposes of subsections 4 and 5, a jail surgeon Interpretation shall be deemed not to be a jail employee. R.S.O. 1950, c. 243, s. 369 (2-6).

**359.** A jailer or an officer of the jail shall not demand or receive any fee, perquisite or other payment from any prisoner. Jailers not to accept fees R.S.O. 1950, c. 243, s. 370.

**360.**—(1) The county council has the care of the court County council to have care of court house, etc. house and of all offices, rooms and grounds connected therewith, whether the court house is a separate building or is connected with the jail, and the appointment of the caretakers thereof, and shall, from time to time, provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Provincial courts of justice, other than the division courts, and for the library of the law association of the county, such last-mentioned accommodation to be provided in the court house, and proper offices, together with fuel, light, stationery and furniture and, when certified by the Attorney General to be necessary, with typewriting machines, for all officers connected with such Provincial courts, other than the Crown attorney of the City of Toronto. (*As to division courts, see R.S.O. 1960, c. 110.*)

(2) Where in any county court district erected under *The County Judges Act* there is a city having a population of Accommodation for judges 100,000 or more and the judicial business in such district is divided among the judges therein as provided by such Act, the county council of the county in which such city is situated shall provide in the court house at least one suitable office, together with fuel, light, stationery, furniture and other accommodation, for the use of the judges of the county courts of the other counties in such district who perform judicial functions in such city. R.S.O. 1960, c. 77

(3) A corporation is not liable to pay for furniture unless Liability for furniture it has been ordered by the council or by some person authorized by it so to do. R.S.O. 1950, c. 243, s. 371.

**361.** The care of the jail or court house of a city shall be Care of city jail regulated by by-law of its council. R.S.O. 1950, c. 243, s. 372.



Responsi-  
bility for  
conveying  
prisoners

**362.** Where the attendance of a prisoner confined in a jail is required at a hearing or proceeding, the municipality in which the hearing or proceeding is held is responsible for conveying the prisoner from the jail to the place of the hearing or proceeding and for his return, and,

- (a) where the hearing or proceeding is held in a city or separated town, the expense incurred thereby shall be shared by the county and the city or separated town in the same manner and in the same proportion as a charge or expense relating to the administration of justice under section 363; and
- (b) where the hearing or proceeding is held in a local municipality other than a city or separated town, the county shall reimburse the local municipality for the expense incurred thereby. 1958, c. 64, s. 27.

#### COSTS AND EXPENSES OF COURT HOUSES AND JAILS

Liability of  
cities and  
separated  
towns for  
cost of  
erection and  
maintenance  
of court  
house, etc.

R.S.O. 1960,  
c. 348

**363.**—(1) A city or a separated town shall, as part of the county for judicial purposes, so long as the county court house or jail is also that of the city or separated town, bear and pay its just share or proportion of all charges and expenses from time to time incurred for the purposes mentioned in section 20 of *The Registry Act*, and in erecting, enlarging, improving, repairing or maintaining such court house or jail, and of their proper lighting, cleaning and heating; of drafting, selecting, enrolling and paying jurors; in providing the accommodation and other matters mentioned in subsection 1 of section 360, and of all other charges relating to the administration of justice. R.S.O. 1950, c. 243, s. 373 (1); 1959, c. 62, s. 16.

Allowance  
to county  
for use of  
court house  
for division  
courts

(2) The use of the court house for the sittings of a division court of a division that comprises the whole or a part of a city or separated town may be taken into account in determining the amount to be paid by the city or town for the maintenance of the court house.

Reference  
to arbitra-  
tion in case  
of disagree-  
ment

(3) If the council of the city or separated town and the council of the county are unable to agree as to the amount to be paid by the city or town, the same shall be determined by arbitration.

Purchase of  
land and  
erection of  
buildings  
for munici-  
pal and judi-  
cial purposes

(4) The council of a county and of a city or separated town situate in the county may agree,

- (a) to acquire land for the purpose of erecting thereon buildings for the joint use of the county and city or town for municipal and judicial purposes;
- (b) for the erection, maintenance, use, management and control of such buildings;

- (c) for fixing the amount that each corporation shall pay or contribute for such purposes;
- (d) for the subsequent disposition of such land and buildings, and of any insurance or other money that may be received in respect thereof,

and may pass all such by-laws as may from time to time be necessary for acquiring the land and carrying out the agreement. R.S.O. 1950, c. 243, s. 373 (2-4).

[NOTE.—*As to payment of expenses of shorthand writer and interpreter, see The County Judges Act, R.S.O. 1960, c. 77. See also The Magistrates Act, R.S.O. 1960, c. 226.*

*As to payment by city or separated town of proportion of certain expenses under The Registry Act, see R.S.O. 1960, c. 348.]*

**364.** Where the court house, jail or registry office was erected before the city or town ceased to be part of the county for municipal purposes, the arbitrator shall take into account, in determining the amount to be paid by the city or town, the value of the respective interests of the county and of the city or town in such building and the extent of the use of it by them respectively. R.S.O. 1950, c. 243, s. 374.

**365.** The corporation of a county, city or separated town has, respectively, from time to time, insurable interests in the county court house and jail in the proportions of the aggregate amounts that they have contributed, respectively, to the costs, charges and expenses of erecting, enlarging, improving and repairing such buildings, and in the contents and furniture of the county court house and jail in the proportions of the aggregate amounts that they have contributed, respectively, to the costs, charges and expenses of providing such contents and furniture. R.S.O. 1950, c. 243, s. 375.

**366.** Where a city is required to contribute towards the cost of building a court house or jail not commenced before the 5th day of March, 1880, the city is not bound to pay for any part of the expenditure thereafter incurred in respect thereto unless the same has been concurred in by the council of the city or, in case of dispute, has been determined by arbitration according to this Act, and the council of the city has a voice in the selection of the site of the court house or jail. R.S.O. 1950, c. 243, s. 376.

**367.** Where a city or separated town is required to contribute towards the cost of enlarging, improving or repairing a court house or jail and the cost thereof will be in excess of \$10,000, the city and separated town have a voice in determining the cost of such improvements in excess of \$10,000.

ing whether or not such enlargement, improvement or repair should be made or another court house or jail erected. 1960, c. 69, s. 15, *part*.

Arbitration on site and advisability of improvements in excess of \$10,000

**368.** Unless the councils of the county and city and separated town agree, the site of the court house or jail, or whether or not any enlargement, improvement or repair of the court house or jail should be made or another court house or jail erected under section 367, shall be determined by arbitration under *The Arbitrations Act*. 1960, c. 69, s. 15, *part*.

R.S.O. 1960, c. 18

Compensation by city or town for use of court house, etc.

**369.**—(1) A city that uses the county court house or jail and a separated town shall pay to the county such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon or determined by arbitration.

Matters to be considered in determining compensation

(2) In determining the compensation to be paid for the care and maintenance of prisoners, the arbitrator shall, so far as he deems it just and reasonable, take into consideration the original cost of the site and erection of the jail and jail buildings and of repairs and insurance, so far as they have been borne by one or other of the municipalities, and the cost of maintaining and supporting the prisoners, as well as the salaries of all officers and servants connected therewith. R.S.O. 1950, c. 243, s. 378.

Settlement of amount payable by city or town where court house and jail built at expense of county

**370.** Where in any city or town the court house and jail of the county have been erected at the expense of the county after the separation for municipal purposes of such city or town from the county, and before the 29th day of March, 1873, and such city or town has not erected a separate court house and jail, if the city or town does not agree with the county as to the amount to be paid to the county as an allowance for interest and depreciation upon the capital cost of the erection of the county court house and jail, the arbitrator in making his award shall take into account the relative populations of the city or town and county, respectively, and the extent to which such buildings are used by the city or town and the county jointly or severally as municipal corporations or for municipal purposes as well as the extent to which such buildings are used for the general administration of justice, and apart from and in addition to any amount payable under this Act for the use of such buildings by the city or town as a municipal corporation, or for municipal purposes, the arbitrator shall award to be paid by the city or town a just proportion of the equivalent of annual interest and depreciation upon the capital cost incurred before such date in the erection of such buildings, which equivalent of interest and depreciation shall be computed at the rate of  $5\frac{1}{2}$  per cent per annum, and



the amount so awarded is payable by such city or town in addition to the share, proportion or compensation payable by such city or town under sections 363 and 369. R.S.O. 1950, c. 243, s. 379.

**371.** After five years from the time when the amount of the compensation was agreed upon or determined by arbitration, either under section 363 or after a direction by the Lieutenant Governor in Council under the authority of this section, the Lieutenant Governor in Council upon the application of either corporation may direct that the existing arrangement shall cease after a day to be named and that the compensation to be paid from that day shall be settled by agreement or be determined by arbitration. R.S.O. 1950, c. 243, s. 380. When the amount of compensation may be reconsidered

**372.**—(1) The council of every local municipality may establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment therein for not more than ten days, and of persons detained for examination on a charge of having committed any offence, or for transfer to any common jail for trial, or in the execution of any sentence, and such persons may be lawfully received and so detained in the lock-up. Lock-up houses

(2) Two or more local municipalities may unite in establishing, maintaining and regulating a lock-up house, and such lock-up house shall be deemed to be the lock-up house of each of them. R.S.O. 1950, c. 243, s. 381. Joint lock-up houses

**373.**—(1) Every lock-up house shall be placed in the charge of a constable appointed for that purpose. Constable in charge

(2) The council may provide for and pay the salary or other remuneration of the constable in charge of a lock-up. R.S.O. 1950, c. 243, s. 382. Salary

**374.** The county jail may be used for the purposes of a lock-up house for any local municipality and, if so used, the corporation of the local municipality shall pay yearly to the county treasurer for the use of the county a reasonable sum for the use of the jail as a lock-up house and for the expenses incurred by such use, and in case of disagreement the amount to be paid to the county shall be determined by arbitration. R.S.O. 1950, c. 243, s. 383. Use of jail as lock-up

**375.** The cost of conveying a prisoner to and of keeping him in a lock-up house shall be defrayed in the same manner as the expense of conveying a prisoner to and keeping him in a common jail of the county. R.S.O. 1950, c. 243, s. 384. Expense of keeping prisoners in lock-up

## INSTITUTIONS FOR ALCOHOLIC HABITUATES

Institutions  
for reclama-  
tion of  
habitual  
drunkards

**376.**—(1) The council of a city having a population of not less than 50,000 may,

- (a) establish, erect and maintain within the city an institution for the reclamation and cure of habitual drunkards; and
- (b) provide that the mayor, magistrate, or any justice of the peace having jurisdiction in the municipality, may send or commit to such institution an habitual drunkard, with or without hard labour.

R.S.O. 1960,  
c. 307  
to apply

(2) Sections 52 to 55 of *The Private Sanitaria Act* apply to such institution. R.S.O. 1950, c. 243, s. 385.

## PART XIX

## POWERS TO PASS BY-LAWS

**377.** By-laws may be passed by the councils of all municipalities:

R.S.O. 1950, c. 243, s. 386, *part.*

*Agreements and Contracts*

Fire protec-  
tion agree-  
ments

1. For entering into agreement with any other municipality or person for the use of the fire-fighting equipment, or any of it, of the municipality or of such other municipality or person upon such terms and conditions and for such consideration based on cost as may be agreed upon, provided that notwithstanding the provisions of any such agreement no liability accrues to the municipality or person for failing to supply the use of the fire-fighting equipment, or any of it. R.S.O. 1950, c. 243, s. 386, par. 1; 1957, c. 76, s. 20 (1).

Water  
supply  
contracts

2. For contracting for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be deemed advisable, and for renting hydrants for any number of years not, in the first instance, exceeding ten, and for renewing the contract from time to time for periods not exceeding ten years, as the council may deem proper, or for purchasing or erecting hydrants necessary for any of such purposes.

Insurance

3. For contracting for insurance against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor. R.S.O. 1950, c. 243, s. 386, pars. 2, 3.

4. For entering into agreement with the corporation of an adjoining municipality or with the owner of any sewage works for the use or interchange of any sewage works for the disposal, interception or purification of sewage, and for making all necessary connections and acquiring land in or adjacent to the municipality for any of such purposes, and for providing for the payment by one municipality or party to the other, annually or otherwise, of such sums as may be agreed upon as compensation for any such interchange or use. 1958, c. 64, s. 28 (1).

Agreement with adjoining municipality or the owner of any works as to sewage works

5. For entering into agreement with one or more municipalities to provide for the joint management and operation of water systems, sewerage systems, works for the disposal, interception or purification of sewage, garbage collection and disposal systems, hydro-electric systems, transportation systems, road systems, fire departments, police departments, or other municipal utility, systems or services, and for the establishment of joint boards of management therefor. R.S.O. 1950, c. 243, s. 386, par. 5.

Joint operation of works, systems and services

6. For entering into agreement with one or more municipalities for the establishment, acquisition, enlargement or extension of water systems, sewage systems and sewage disposal works to be jointly owned by the municipalities that have entered into agreement and operated for their joint use upon such terms as may be agreed upon. 1958, c. 64, s. 28 (2).

Joint acquisition and operation of water system, etc.

7. For entering into agreement with a company, board or commission operating a transportation system in the municipality for watering or oiling any of the highways for any number of years, not exceeding five, and for renewing such agreement from time to time for a period not exceeding five years. R.S.O. 1950, c. 243, s. 386, par. 6; 1951, c. 53, s. 15 (1).

Contracts for street watering or oiling

8. For providing in any agreement that may be lawfully made with another municipality that any dispute arising out of such agreement may be determined by the Municipal Board as sole arbitrator. 1960, c. 69, s. 16 (1).

Providing for determination of disputes under agreements

### *Air Harbours and Landing Grounds*

9. For the establishment of or for granting aid to the establishment of air harbours or landing grounds in compliance with the *Air Regulations* (Canada), and for granting aid for aeronautical research work and for the development and general advancement of the science of aeronautics and the use of aircraft; and the councils of any two or more municipalities may enter into an agreement for the establishment of an air harbour and the joint exercise of all the powers and rights contained in this paragraph upon such terms as may be agreed and may

Establishment of air harbours and landing grounds



entrust the control and management of any air harbour or landing ground so established to a commission appointed by such councils pursuant to agreement.

- (a) For the purposes of this paragraph, the council of a local municipality may acquire land in the municipality or in an adjacent or an adjoining municipality or in any adjacent or adjoining territory without municipal organization situate in one or more territorial districts. R.S.O. 1950, c. 243, s. 386, par. 7; 1953, c. 70, s. 10 (1).
- (b) A commission appointed under this paragraph is a body corporate and, subject to the terms of the agreement, where the control and management of an air harbour or landing ground have been entrusted to it by the parties to the agreement, may establish an air harbour or landing ground or acquire by lease or otherwise an existing air harbour or landing ground in any municipality.
- (c) The cost of operating, maintaining and improving the air harbour or landing ground, and the establishment of hangars and other buildings and facilities, shall be borne by the municipalities as provided in the agreement.
- (d) Such an agreement shall not be for a longer period than ten years. 1959, c. 62, s. 17 (1).

#### *Associations*

Membership  
in union of  
municipalities

10. For the corporation becoming a member of any union of Ontario municipalities for furthering the interests of municipalities and paying the fees for such membership and making contributions for the expenses of the union, and paying the expenses of delegates to any meeting of it or upon its business.

Officers  
becoming  
members of  
association  
for improv-  
ing technical  
knowledge

11. For any corporation officers becoming members of any municipal union or association for extending and improving the technical skill of such municipal officers in the discharge of their municipal duties, and for paying the fees for such membership, and for paying the expenses of such officers attending any meeting of such union or association or upon its business.

Canadian  
Deep  
Waterways  
and Power  
Association

12. For the corporation becoming a member of the Canadian Deep Waterways and Power Association and paying the fees for such membership and for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business.

Grants to  
Ontario  
Safety  
League

13. For making contributions towards the expenses incurred by the Ontario Safety League in carrying out the purposes for which it was organized. R.S.O. 1950, c. 243, s. 386, pars. 8-11.

14. For appointing representatives to a Regional Development Association that has been duly constituted for the promotion of the economic development of the general area and for the making of grants to such Association. 1956, c. 50, s. 14 (1), *part.* Regional Development Association

### *Drainage and Floods*

15. For constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up drains, sewers or water-courses; for constructing, maintaining, repairing and improving dams; for providing an outlet for a sewer or establishing works or basins for the interception or purification of sewage; for making all necessary connections therewith, and for acquiring land in or adjacent to the municipality for any of such purposes. Construction of drains, sewers, sewage disposal works, etc.

(a) Before passing a by-law under this paragraph, the council may direct that an engineer's report, with or without a survey, be prepared and the cost thereof may be levied against all the rateable property in the municipality or in a defined area thereof that in the opinion of council derives special benefit therefrom.

(b) The cost of such construction, maintaining, improving, repairing, widening, altering, diverting, stopping up and acquisition may be levied against all rateable property in the municipality, or in a defined area thereof that in the opinion of council derives special benefit therefrom. R.S.O. 1950, c. 243, s. 386, par. 12; 1959, c. 62, s. 17 (2).

16. For the purpose of preventing damage to any highway or bridge or to any property within the municipality by floods arising from the overflowing or damming back of a river, stream or creek flowing through or in the neighbourhood of the municipality, for acquiring land in the municipality or in any adjoining or neighbouring municipality, and for constructing such works as may be deemed necessary for that purpose, and for deepening, widening, straightening or otherwise improving such river, stream or creek in the land so acquired, or removing from it islands, rocks or other natural obstructions to the free flow of the water. R.S.O. 1950, c. 243, s. 386, par. 13. Works for prevention of damage by flooding

17. For entering into agreement with Her Majesty in right of Ontario and for entering into agreement with one or more municipalities and Her Majesty in right of Ontario to acquire and hold for and on behalf of Her Majesty in right of Ontario any lands and premises in the municipality or in any other Agreements to prevent damage by floods

municipality for the purpose of preventing damage by floods and for doing all such things as may be deemed necessary for that purpose.

(a) Such lands and premises shall be used and disposed of as directed by the Lieutenant Governor in Council.

R.S.O. 1960,  
c. 23

(b) For the purposes of *The Assessment Act*, such lands and premises shall be deemed a public park. 1955, c. 48, s. 37 (1).

#### *Exhibitions, etc.*

Acquiring  
land for  
agricultural  
exhibitions,  
etc.

18. For acquiring land within or without the municipality as a place for holding agricultural, horticultural or industrial exhibitions and for erecting and maintaining buildings thereon for that purpose and for the management of the same.

Power to  
lease

19. For leasing for any period, not exceeding three years from the making of the lease, any part of the land acquired under paragraph 18, that is not immediately required for the purposes for which it was acquired.

#### *General*

Census

20. For taking a census of the inhabitants.

Destruction  
of records

21. Subject to the approval of the Department, for the destruction of receipts, vouchers, instruments, rolls or other documents, records and papers.

Rental of  
equipment

22. For providing for the use by any person of any of the mechanical equipment of the municipality and for fixing the terms, conditions and rent charges therefor.

Submission  
of questions  
of general  
policy to  
electors

23. For submitting to the vote of the electors any municipal question not specifically authorized by law to be submitted.

(a) A question as to securing a supply of electrical power or energy from The Hydro-Electric Power Commission of Ontario shall be submitted to the electors qualified to vote on money by-laws. R.S.O. 1950, c. 243, s. 386, pars. 14-19.

Licensing,  
etc., dry  
cleaners, etc.

24. For regulating and governing the business of dry cleaning, dry dyeing, cleaning and pressing and spotting or stain removing; for licensing any person using any land in the municipality for the purposes of any such business including land used for the purpose of receiving articles or goods to be subjected to any such process and for the distribution of articles or goods that have been subjected to any such process; for authorizing the architect or other person named in the



by-laws to allow such variation from the standard requirements in the case of any existing business as he may approve; for establishing a maximum and minimum tariff of charges to be made by any person engaging in any such business and for revoking any such licence.

- (a) Where the council of a town, village or township has passed a by-law under this section, the by-law of the county is not in force in the town, village or township while the by-law of the town, village or township remains in force. 1954, c. 56, s. 20 (1).

*Grants, etc.*

25. With the assent of the electors qualified to vote on money by-laws, for making grants to persons who served in the armed forces of Her Majesty or Her Majesty's allies during any war. Grants to members of armed forces

26. With the assent of the electors qualified to vote on money by-laws, for granting aid to any fund established for the purpose of providing allowances or other assistance to the dependants of persons who died while serving in the armed forces of Her Majesty or Her Majesty's allies during any war and who immediately before entering such service resided in the municipality for at least six months. 1953, c. 70, s. 10 (2). Aid to widows, etc.

27. For establishing and maintaining or for granting money to aid in the construction of public bathing houses. Public bathing houses

28. For granting aid to any charitable institution or out-of-door relief to the resident poor. R.S.O. 1950, c. 243, s. 386, pars. 22, 23. Aid to charities

29. For granting aid to any association duly constituted for the promotion of the welfare and education of retarded children within the municipality. 1956, c. 50, s. 14 (1), *part*. Aid for retarded children

30. For carrying on any community or joint community programme of recreation within the meaning of the regulations under *The Department of Education Act* and for expending money or for granting money in aid for such purposes. R.S.O. 1950, c. 243, s. 386, par. 24; 1954, c. 56, s. 20 (2). Community programmes  
R.S.O. 1960, c. 94

31. For granting or lending money or granting land in aid of any association for the holding of a fat stock or live stock show or exhibition or any exhibition for the promotion or improvement of farming in any of its branches or departments. Aid to fat or live stock shows

32. For making an annual grant towards the maintenance and operation of ferry boats or other appliances used at any ferry over a stream or other water separating a part of the municipality from another part of it, or separating it from another municipality in Ontario. Grants to ferries

Fox  
bounties

33. For giving bounties for the destruction of foxes, provided that a local municipality shall not give any such bounties where the county in which it is situate has a by-law in force under this paragraph.

Aid for con-  
struction of  
harbours,  
wharves, etc.

34. For granting aid for the construction of harbours, wharves, docks, slips and beacons on any river, lake or navigable water passing in, through or forming any part of the boundary of the county, on such terms and conditions as to security and otherwise as may be deemed expedient. R.S.O. 1950, c. 243, s. 386, pars. 25-28.

Aid to  
hospitals

35. For granting aid for the erection, establishment, maintenance or equipment of public hospitals including municipal hospitals, public sanatoria or municipal isolation hospitals and nurses' residences in connection therewith, within or outside the municipality, and may issue debentures therefor. R.S.O. 1950, c. 243, s. 386, par. 29; 1952, c. 63, s. 15 (1); 1957, c. 76, s. 20 (2).

(a) Granting aid for the purposes of this paragraph shall be deemed to include and to have always included granting money or land in aid. 1960, c. 69, s. 16 (2).

Aiding  
indigent  
persons

36. For aiding in maintaining any indigent inhabitant, or person found in the municipality, at a home for the aged, hospital or institution for the mentally ill, deaf and dumb or blind, or other public institution of a like character.

(a) Where money is advanced by way of charity or relief to or expended for the benefit of a person who, although in destitute circumstances, is the owner of or interested in land the retention of which is necessary for a dwelling for him, the corporation may take a conveyance of or a security on such land for the amount advanced or expended, and, on the death of such person or the surrender of the land by him to the corporation, the corporation may sell or dispose of the land and apply the proceeds in payment of the amount so advanced or expended, with interest thereon at the rate of 6 per cent per annum, and the costs of the sale and the residue of such proceeds, if any, shall be paid to the executors, administrators or assigns of such person on demand.

Public  
libraries

37. For granting money or land in aid of any public library established under any Act in the municipality or in an adjacent municipality. R.S.O. 1950, c. 243, s. 386, pars. 30, 31.

Aid to art  
galleries

38. For granting money or land in aid of any art gallery in the municipality or in an adjacent municipality operated on

a non-profit basis for the advancement of culture and for the benefit of the public, upon such terms and conditions as the council deems expedient. 1960, c. 69, s. 16 (3), *part*.

39. For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment. Offering and paying rewards

40. For aiding athletic or aquatic sports, and for making grants or gifts to persons in recognition of outstanding achievements in athletic, aquatic or other games or contests. Sports

41. For granting aid to the Victorian Order of Nurses and to any local community nursing registry approved by the Registered Nurses' Association of Ontario. R.S.O. 1950, c. 243, s. 386, pars. 32-34. Aid to nursing organizations

42. For granting aid to the Royal Botanical Gardens. 1960, c. 69, s. 16 (3), *part*. Aid to Royal Botanical Gardens

#### *Harbours, Wharves, etc.*

43. For making, improving and maintaining public wharves, docks and slips, and for preserving shores, bays, harbours, rivers or waters and the banks thereof. Making, etc. of wharves, docks, etc.

44. For regulating harbours. Regulating harbours

45. For prohibiting the injuring, fouling, filling up or encumbering of a public wharf, dock, slip, drain, sewer, water or suction pipe, shore, bay, harbour, river or water. Injuring, filling up, etc., of harbours, wharves

46. For erecting and maintaining beacons. Beacons

47. For erecting, maintaining, operating and renting grain elevators, wharves, piers and docks in harbours, and floating elevators, derricks, cranes and other machinery for loading, discharging or repairing vessels. Erecting docks, elevators, etc.

48. For regulating vessels, crafts and rafts arriving in a harbour, and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order and to pay a harbour master. Vessels, etc. Harbour dues

49. For requiring the owner or occupant of the land, in connection with which the same exist, to remove door-steps, porches, railings or other erections or obstructions projecting into or over any public wharf, dock, slip, shore, bay, harbour, river or water. Removal of door-steps, railings, projecting over wharf, dock, etc.

50. For requiring and regulating the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, Removal of sunken vessels, etc., from harbours, etc.



barges, crafts, cribs, rafts, logs or other obstructions or encumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same.

### *Highways and Bridges*

Regulating driving on roads and bridges

51. For regulating the driving of horses or cattle and the riding of horses on highways and bridges.

Prohibiting racing on highways

52. For prohibiting racing, immoderate or dangerous driving or riding on highways or bridges. R.S.O. 1950, c. 243, s. 386, pars. 35-44.

Laying of pipes for petroleum, etc.

53. Notwithstanding any other Act, for laying or maintaining, or for authorizing any person to lay, use or maintain, pipes or conduits for transmitting gasoline, petroleum or petroleum products, anti-freeze, brine or other similar products along, under, in or upon highways or land owned by the municipality; and for making such annual or other charge for the privilege conferred as the council may deem reasonable; and for entering into agreements with persons for the use by them of such pipes or conduits on such terms and conditions as may be agreed upon.

(a) Such annual or other charge and any expense incurred by the corporation in restoring the highway to its former condition shall be payable and payment may be enforced in like manner as taxes. R.S.O. 1950, c. 243, s. 386, par. 45; 1953, c. 70, s. 10 (3).

Prohibiting vehicles on sidewalks, etc.

54. For prohibiting carriages, wagons, bicycles, sleighs and other vehicles and conveyances of every description, and whatever the motive power, or any particular kind or class of such vehicles or conveyances being upon, or being used, drawn, hauled or propelled along or upon, any sidewalk, pathway or footpath, used by or set apart for the use of pedestrians and forming part of any highway or bridge, boulevard or other means of public communication, or being in or upon any highway, boulevard, park, park-lot, garden or other place set apart for ornament or embellishment or for public recreation. R.S.O. 1950, c. 243, s. 386, par. 46.

Benches on highways

55. For placing or permitting any person to place benches for the use of the public on the untravelled portion of any highway under its jurisdiction. 1956, c. 50, s. 14 (1), *part*.

Temporary closing of highway for repairs, etc.

56. For closing temporarily any highway or portion of a highway under the jurisdiction of the municipality for any period during the construction, repairing or improvement of such highway or portion thereof.

(a) Where a highway or portion thereof is closed by by-law under this paragraph, the municipality shall

provide and keep in repair a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.

- (b) While a highway or portion thereof is so closed to traffic, there shall be erected at each end of such highway or portion thereof, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously from sunset until sunrise and at such points there shall be erected a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.
- (c) Every person who uses a highway or portion of a highway so closed to traffic does so at his own risk and the municipality having jurisdiction over the highway is not liable for any damage sustained by a person using the highway or portion thereof so closed to traffic.
- (d) Every person who without lawful authority uses a highway or portion thereof so closed to traffic while it is protected in accordance with this paragraph, or who removes or defaces any barricade, device, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a penalty of not more than \$50 and is also liable to the municipality having jurisdiction for any damage or injury occasioned by such wrongful use, removal or defacement. 1959, c. 62, s. 17 (3).

57. For placing or permitting any person, under such conditions as may be agreed upon, to erect transit system shelters on the untravelled portion of a highway under its jurisdiction. 1960, c. 69, s. 16 (3), *part.*

#### *Municipal Employees*

58. For appointing such officers and servants as may be necessary for the purposes of the corporation, or for carrying into effect the provisions of any Act of the Legislature or by-law of the council, and for fixing their remuneration and prescribing their duties, and the security to be given for the performance of them. R.S.O. 1950, c. 243, s. 386, par. 47.

59. Subject to such limitations and restrictions as the Lieutenant Governor in Council may prescribe by regulations, for providing pensions for employees or any class thereof.

(a) In this paragraph,

- (i) "employee" means any salaried officer, clerk, workman, servant or other person in the

Interpre-  
tation

employ of the municipality or of a local board and includes any person or class of person designated as an employee by the Minister,

- (ii) "local board" includes any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police and any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof but does not include a hospital established under any general or special Act and operated by a municipal corporation.

Approval by  
Department

- (b) No by-law passed under this paragraph shall become operative until approved by the Department nor shall any by-law passed under this paragraph and approved by the Department be amended or repealed without the approval of the Department.

Payments to  
be deemed  
current  
expenditures

- (c) Payments made with respect to past service may be on a deferred basis or provided by the issue of debentures and raised in a subsequent year or years and payments with respect to past service and future service shall be deemed to be current expenditures.

Payments to  
be deducted  
from salary,  
etc.

- (d) The municipality or local board shall deduct by instalments from the salary, wages or other remuneration of each employee to whom the by-law is applicable the amount that such employee is required to pay in accordance with the provisions of the plan that provides a pension for such employee.

Payments by  
local board  
to municip-  
ality

- (e) Where any employee of a local board is a member of a pension plan provided by a municipality, the local board shall pay to the treasurer of the municipality the payments and deductions made for past and future service of such employee.

Municipalities may  
agree to  
provide  
pensions

- (f) Any two or more municipalities may provide by agreement for pensions for employees or any class thereof, and in such case the provisions of this paragraph apply *mutatis mutandis* and it shall be agreed that one of the parties shall be deemed to be the municipality and the other parties shall be deemed to be local boards within the meaning of this paragraph.



(g) Any local board may provide pensions for employees or any class thereof and the provisions of this paragraph apply *mutatis mutandis* thereto. Local boards may provide pensions

(h) Where an employee, on or after the 1st day of March, 1948, has become or becomes a member of, Transfer of pension money

- (i) the civil service of Ontario or Canada,
- (ii) the civic service of any other municipality or local board, or
- (iii) the staff of any board, commission or public institution established under any Act of the Legislature,

and a pension plan has been provided for him other than a contract with Her Majesty in accordance with the *Government Annuities Act* (Canada), the council shall, on the written request of the employee, by by-law authorize the transfer of and shall transfer a sum equal to the credit of the employee in its pension plan heretofore or hereafter established under this or any other general or special Act, including payments and deductions for past or future service or both together with interest thereon, to any fund or plan maintained to provide superannuation benefits or pensions for the members of such civil or civic service or staff, as the case may be, where such fund or plan allows such transfers thereto. R.S.C. 1952 c. 132

(i) Where a member of,

*Idem*

- (i) the civil service of Ontario or Canada,
- (ii) the civic service of any other municipality or local board, or
- (iii) the staff of any board, commission or public institution established under any Act of the Legislature,

on or after the 1st day of March, 1948, has become or becomes an employee of the municipality or local board and a sum of money is transferred from any fund or plan maintained to provide superannuation benefits or pensions for the members of such civil or civic service or staff, as the case may be, to the credit of the employee, the council shall by by-law authorize the transfer into and shall transfer into the pension plan heretofore or hereafter established under this or any other general or special Act and applicable to the employee such sum in the like manner as a payment for past service. 1958, c. 65, s. 4; 1960, c. 69, s. 16 (4).

Sick leave  
credit  
gratuities

60. For establishing a plan of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment.

Interpre-  
tation

(a) "Employee" means an employee as defined in paragraph 59.

Transfer  
of credits

(b) Where an employee of a municipality or local board that has established a sick leave credit plan under this or any other general or special Act becomes an employee of another municipality or local board that has also established a sick leave credit plan under this or any other general or special Act, the latter municipality or local board shall place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of the first-mentioned municipality or local board, provided that the amount of such sick leave credits so placed shall not exceed the amount of cumulative sick leave credits permitted under the plan to which the credits are placed. 1953, c. 70, s. 10 (5); 1957, c. 76, s. 20 (4); 1958, c. 64, s. 28 (3).

Insurance,  
hospitaliza-  
tion, etc.

R.S.O. 1960,  
cc. 190, 304

61. For providing, by contract either with an insurer licensed under *The Insurance Act* or with an association registered under *The Prepaid Hospital and Medical Services Act*,

- i. group life insurance for employees or any class thereof,
- ii. group accident insurance or group sickness insurance for employees or any class thereof and their wives and children, and
- iii. hospital, medical, surgical, nursing or dental services or payment therefor for employees or any class thereof and their wives or husbands and children,

and for contributing toward the cost thereof.

(a) No by-law under this paragraph shall authorize contributions by the municipality in excess of the total of those made by the employees.

(b) In this paragraph, "employee" means an employee as defined in paragraph 59. 1954, c. 56, s. 20 (6); 1957, c. 76, s. 20 (5).

62. For contributing toward the cost to employees of the plan of hospital care insurance provided for under *The Hospital Services Commission Act*. Contributions toward plan under R.S.O. 1960, c. 176

- (a) No by-law under this paragraph shall authorize contributions by the municipality in excess of the total made by the employees.
- (b) In this paragraph, "employee" means an employee as defined in paragraph 59. 1959, c. 62, s. 17 (4).

*Parks, Parking Lots, etc.*

63. For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality and, where there is no board of park management, for exercising all or any of the powers that are conferred on boards of park management by *The Public Parks Act*. Acquiring land for parks, etc. R.S.O. 1960, c. 329

- (a) A corporation that expropriates land in another municipality under the powers conferred by this paragraph shall put the land in an efficient state to be used and open it to the general public for the purpose for which it was acquired within a reasonable time after such expropriation, and shall maintain and keep the land in an efficient state of repair and shall provide police protection therefor.
- (b) Where land is acquired under this paragraph, the cost of acquisition and maintenance thereof or any part thereof may be levied against a defined area in the municipality that in the opinion of the council derives special benefit therefrom.
- (c) Where land is acquired under this paragraph for park purposes and there is no board of park management, the council may appoint not less than three and not more than seven resident ratepayers to act on its behalf as a board of management for any undertaking under this paragraph and, where the board is composed of five or more persons, at least two shall be members of the council. R.S.O. 1950, c. 243, s. 386, par. 50; 1955, c. 48, s. 37 (2).

64. For accepting and taking charge of land, within or outside the municipality, dedicated as a public park for the use of the inhabitants of the municipality. R.S.O. 1950, c. 243, s. 386, par. 51. Accepting land dedicated



Joint  
acquisition  
and main-  
tenance of  
public parks

65. For entering into agreement with one or more municipalities for the purpose of,

- i. acquiring land for and establishing and laying out a public park within the municipality or within any other municipality; and
- ii. maintaining or operating a public park within the municipality or within any other municipality.

Grants re  
public parks  
outside  
municipality

66. For granting aid to another municipality or to a board of park management for the maintenance or operation of a public park outside the municipality. 1955, c. 48, s. 37 (3).

Municipal  
parking lots

67. For acquiring, establishing, laying out and improving land, buildings and structures where vehicles may be parked, and for erecting buildings or structures for or in connection with the parking of vehicles in, on or under any land vested for any purpose in a municipality, and for leasing such land, buildings or structures, and for regulating, supervising and governing the parking of vehicles therein or thereon, provided a fee is charged and collected for such parking.

Definition  
of vehicle

(a) A by-law under this paragraph may define vehicle for the purposes of the by-law.

Application  
of s. 476,  
par. 7

(b) Land acquired or established for the parking of vehicles under this paragraph and buildings and structures acquired or erected under this paragraph shall be deemed to be a highway for the purposes of paragraph 7 of section 476 and the said paragraph 7 applies to such land, buildings and structures.

Entrances  
and exits  
from  
underground  
parking  
facilities

(c) A by-law under this paragraph may set aside and designate on any land vested for any purpose in a municipality entrances and exits to or from any underground parking facilities for the use of persons or vehicles, provided no such entrances or exits shall be set aside on a connecting link or extension of the King's Highway without the approval of the Department of Highways.

Procedure  
for voluntary  
payment of  
penalties  
out of court

(d) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking provisions of the by-law have been contravened and if payment is not made in accordance with such procedure section 482 applies.

Reserve fund

(e) Where a municipality establishes a parking lot or lots or erects buildings or structures therein, thereon or thereunder for such purposes or constructs underground parking facilities in the municipality at the

expense of all the ratepayers of the municipality, the municipality shall establish a reserve fund and deposit therein the net revenue derived from the operation of all parking facilities operated by or on behalf of the municipality or leased by or on behalf of the municipality for parking purposes, including parking meters on highways.

(f) Such reserve fund shall be applied,

*Idem*

- (i) firstly, for the payment of interest and principal falling due in each year in respect of any debentures issued for the purposes of this paragraph, and
- (ii) secondly, for the acquisition, establishment, laying out or improvement of additional parking lots or facilities, and
- (iii) thirdly, for such other purposes as the Department may approve.

- (g) (i) A by-law passed under the authority of this paragraph may provide, with the approval of the Municipal Board, that the capital cost thereof, or any part thereof, the annual rental payable under a lease or any operating deficit in the previous year shall be levied against the lands in a defined area in the municipality that in the opinion of the council derive special benefit therefrom, and in that case the by-law shall have appended thereto a schedule establishing the portion of the cost that shall be levied against each parcel of land in the defined area.
- (ii) The entire cost chargeable to lands in the defined area shall be equitably apportioned among all the parcels in accordance with the benefits accruing to a parcel from the establishment of the parking lot or in the proportion that the assessment of each parcel bears to the total assessment of the parcels in the defined area.
- (iii) Where the capital cost or a part thereof is to be levied as provided in subclause i, the council shall give notice of its application to the Municipal Board for approval of the by-law to the assessed owner of each parcel of land in the defined area.
- (iv) The Municipal Board shall not approve the by-law if a petition objecting to the levy of

Levy of  
parking lot  
cost against  
defined area

the capital cost against the defined area, signed by at least two-thirds of the assessed owners representing at least one-half of the assessed value of the land in the area, is filed with the Board at or prior to the hearing of the application.

- (v) Where a by-law establishing a parking lot provides for levying the capital cost thereof against land in a defined area, the net revenue derived from the operation of such parking lot shall be used to reduce the special levy to be made against the land in the defined area under subclause iii in the proportion the special levy made against each parcel of land bears to the total special levy, and after the debentures have been retired the net revenue derived from the operation of such parking lot shall be paid into the reserve fund set up under clause *e* or, if no reserve fund has been set up under clause *e*, a reserve fund shall be set up for the same purposes and such net revenue paid into the fund and applied in accordance with clause *f*. 1955, c. 48, s. 37 (4), *part*; 1957, c. 76, s. 20 (6-9); 1959, c. 62, s.17 (5, 6).

Independent  
parking  
authority  
authorized

68. For establishing an authority to be known as "The Parking Authority of the ..... of .....", and may entrust to the parking authority the construction, maintenance, control, operation and management of municipal parking facilities within the municipality.

Incorporation  
and  
members

- (a) A parking authority established under this paragraph is a body corporate and shall consist of three members, each of whom shall be a person qualified to be elected as a member of the council of the municipality and shall be appointed by the council on the affirmative vote of at least two-thirds of the members of council present and voting, and the members so appointed shall hold office for three years and until their successors are appointed.

Council  
members not  
qualified

- (b) No member of the council is eligible to be appointed a member of the parking authority.

Vacancies

- (c) Where a vacancy in the parking authority occurs from any cause, the council shall appoint immediately a person, qualified as set out in this section, to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.



- (d) Any member is eligible for re-appointment on the expiration of his term of office. Re-appointment of members
- (e) The members may be paid such salary or other remuneration as may be fixed by by-law of the council with the approval of the Department. Salary of members
- (f) Upon the passing of the by-law establishing the parking authority, all the powers, rights, authorities and privileges conferred and duties imposed on the municipal corporation by any general or special Act with respect to the construction, maintenance, operation and management of municipal parking facilities shall be exercised by the parking authority, but subject to such limitations as the by-law may provide. Powers and duties of municipality transferred to authority
- (g) The parking authority shall fix rates and charges for the use of parking facilities under its control and management so that the revenue therefrom shall be sufficient to make such parking facilities self-sustaining. Power to fix rates
- (h) The parking authority shall submit to the council its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the parking authority and, when money is so provided by the council, the treasurer of the municipality shall, upon the certificate of the parking authority, pay out such money. Budget and expenditures
- (i) On or before the 1st day of March in each year, the parking authority shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement. Annual report
- (j) The municipal auditor shall be the auditor of the parking authority and all books, documents, transactions, minutes and accounts of the parking authority shall, at all times, be open to his inspection. Audit
- (k) The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the parking authority. Debentures

Abolition of  
authority

- (I) Upon the repeal of the by-law establishing the parking authority, the parking authority ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality. 1955, c. 48, s. 37 (4), *part*; 1957, c. 76, s. 20 (10).

*War Memorials and Patriotic Objects*

Special  
undertakings

69. Notwithstanding any general or special Act, subject to the approval of the Department, for acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial windows, tablets, buildings, arenas, auditoriums, parks, recreational areas, health or community centres, playgrounds, athletic fields, stadia, museums, including public historical museums, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement within or outside the municipality that may or may not be in commemoration of the persons or any class thereof who served during any war in the armed forces of Her Majesty or Her Majesty's allies or in the auxiliary or ancillary services of such forces or in the merchant marine or any Corps of (Civilian) Canadian Fire Fighters for service in the United Kingdom.

- (a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor or for any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof.
- (b) Any such monument may with the approval of the Municipal Board, on application by the corporation, be erected in any highway not less than sixty-six feet in width and over which the corporation has jurisdiction.
- (c) Any such building may be established and equipped as a home or club-house for such persons or any class thereof or may be used for such purposes as the council may deem proper.
- (d) The councils of two or more municipalities may enter into agreement for carrying out any of the purposes of this paragraph in any one of such municipalities.
- (e) The council may appoint not less than three and not more than seven persons who are qualified to be elected as members of the council to act on its behalf as a board of management for any undertaking under this paragraph and, where the board is

composed of five or more persons, at least two shall be members of the council.

- (f) Where two or more municipalities have entered into agreement under clause *d*, each member of the board shall be a person who is qualified to be elected as a member of the council of one of such municipalities and, where the board is composed of five or more persons, at least two shall be appointed from among the members of the councils of such municipalities.
- (g) The council may prescribe fees for admittance to or for the use of any undertaking under this paragraph. R.S.O. 1950, c. 243, s. 386, par. 53; 1954, c. 56, s. 20 (8); 1955, c. 48, s. 37 (5); 1956, c. 50, s. 14 (2); 1958, c. 64, s. 28 (4, 5); 1960, c. 69, s. 16 (5).

70. For exempting from taxation, except for local improvement and school purposes, for a period not exceeding ten years, any premises actually used and occupied as a memorial home, club-house or athletic grounds by persons who served in the armed forces of Her Majesty or Her Majesty's allies in any war. R.S.O. 1950, c. 243, s. 386, par. 54; 1957, c. 76, s. 20 (11). Exemption from taxation

**378. By-laws may be passed,**

- (a) by the councils of counties, cities, separated towns and separated townships, and of local municipalities in unorganized territory, Grants for patriotic purposes:
  - (i) for granting aid to any patriotic organization that is duly registered under *The War Charities Act, 1939* (Canada), aid to patriotic organizations
  - (ii) for aiding any regularly organized rifle association or any association or corporation having for its object or one of its objects the promotion of military art, science or literature, aid to rifle associations and militia
  - (iii) for aiding the establishment or maintenance of military bands of music; bands of music
- (b) by the councils of all municipalities,
  - (i) for aiding the establishment or maintenance of local war savings or loan committees, war savings committees
  - (ii) for the establishment and maintenance of emergency measures civil defence organizations, and civil defence
  - (iii) for providing moneys for emergency measures and civil defence, for the purposes of emer- idem



gency measures civil defence organizations and for the cost of the operation of such organizations, and for other similar work within the municipality. R.S.O. 1950, c. 243, s. 387; 1953, c. 70, s. 11; 1955, c. 48, s. 38; 1960, c. 69, s. 17.

**379.—(1)** By-laws may be passed by the councils of local municipalities:

[NOTE.—*For special provisions relating to the exercise by townships of certain of the following powers, see subsections 2 and 3 of this section.*]

#### *Animals and Birds*

Regulating  
the keeping  
of animals,  
etc.

1. For regulating the keeping of domestic fowl or pigeons or cattle, goats, swine, horses, rabbits, mink, foxes or other animals, or kennels for the breeding or boarding of cats and dogs, within the municipality or defined areas thereof.

Prohibiting  
keeping of  
animals, etc.

2. For prohibiting the keeping of domestic fowl or cattle, goats, swine, rabbits, mink, foxes or other animals, except horses or mules, within the municipality or defined areas thereof.

Providing  
pounds

3. For providing sufficient yards and enclosures for the safe keeping of such animals as it may be the duty of the pound-keeper to impound.

Animals  
running at  
large

4. For prohibiting or regulating within any part of the municipality or within any defined area thereof, or upon any defined highways therein, the running at large or trespassing of animals, other than dogs, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time or if the damages, fines and expenses are not paid according to law.

Appraising  
the  
damages

5. For appraising the damages to be paid by the owners of animals impounded for trespassing, contrary to law or the by-laws of the municipality.

Compensa-  
tion for  
impounding  
animals

6. For determining the compensation to be allowed for services rendered in carrying out the provisions of any Act with respect to animals impounded or distrained and detained in the possession of the distrainer.

(a) Any by-law passed by the council of a town, village or township under paragraphs 3 to 6 applies to any county highway or part thereof situate within such town, village or township. R.S.O. 1950, c. 243, s. 388 (1), pars. 1-6.

*Television Antennae*

7. For licensing, regulating and governing persons engaged in the installation, erection, construction, reconstruction, alteration or repair of structures used to carry television antennae, and for revoking any such licence. 1952, c. 63, s. 16 (1), *part*. Television installers

*Explosives*

8. For regulating the keeping, storing and transporting of, Regulating, storing and transportation of explosives

- (a) dynamite, dualin, nitro-glycerine or gunpowder;
- (b) petroleum, gasoline or naphtha;
- (c) detonators and detonator caps; and
- (d) other dangerous or combustible, inflammable or explosive substances. R.S.O. 1950, c. 243, s. 388 (1). par. 16; 1958, c. 64, s. 29 (1).

9. For regulating and providing for the support by fees of magazines belonging to private persons for the storage of the substances mentioned in clause *a* of paragraph 8, and for requiring them to be stored in such magazines. Fees for support of magazines

10. For erecting and maintaining within or without the limits of the municipality magazines for the storage of the substances mentioned in clause *a* of paragraph 8, and for acquiring the land necessary for that purpose, and for requiring such substances to be stored in such magazines. Erecting and maintaining magazines

11. For limiting the quantity of the substances mentioned in clause *a* of paragraph 8 that may be kept in any place other than such a magazine, and for regulating the manner in which they are to be kept or stored. Limiting quantity to be kept

12. For prohibiting or regulating the establishment within the municipality of factories or other places for the manufacture or storage of any of the substances mentioned in clause *a* of paragraph 8. Prohibiting manufacture of explosives

13. For requiring the submission of plans of the premises including the buildings upon or in which it is proposed that such manufacture or storage shall take place, and the approval of them by the council before the manufacture or storing is commenced. Submission of plans of premises

14. For requiring such buildings to be surrounded by walls or fences and for regulating the height and description of such walls or fences and their distance from such buildings, and also the distance from any other building, at which such manufacture or storage may be carried on. Height and description of fences around buildings

Regulating  
business of  
manufac-  
turing ex-  
plosives

15. For regulating the carrying on of the business of manufacturing or storing such substances, whether the business has been heretofore or is hereafter established, and prescribing the precautions to be taken for the prevention of fires and accidents from the combustion or explosion of such substances.

Licences  
for carrying  
on business

16. For granting licences for the carrying on of the business of manufacturing the substances mentioned in paragraph 8 or for storing them in quantities of more than twenty-five pounds, and prescribing the time, not exceeding five years, during which the licences shall remain in force, provided that the licence fee shall not exceed \$25 a month for every month in which such business is carried on.

Storing, etc.,  
of gasoline,  
etc.

17. For prohibiting or regulating the keeping or storing of gasoline or benzine, and prescribing the materials of which the vessels containing it shall be composed, and the classes of buildings in which it may be stored or kept for sale, and for making regulations for the prevention of fires and accidents from the combustion or explosion of such substances.

### Fences

Height and  
kind of  
fence

18. For prescribing the height and description of lawful fences.

Along  
highways

19. For prescribing the height and description of, and the manner of maintaining, keeping up and laying down, fences along highways or parts thereof, and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down any such fence.

Division  
fences,  
apportion-  
ment of cost

20. For determining how the cost of division fences shall be apportioned, and for providing that any amount so apportioned shall be recoverable under *The Summary Convictions Act*, provided that, until a by-law is passed, *The Line Fences Act* applies.

R.S.O. 1960,  
cc. 387, 216

Barbed wire  
fences

21. For requiring proper and sufficient protection against injury to persons or animals by fences constructed wholly or partly of barbed wire or any other barbed material to be provided by the owner of the land, and in towns and cities for prohibiting the erection along the highways of fences made wholly or partly of barbed wire or any other barbed material.

Water ga s

22. For requiring the owners of land to erect and maintain a water gate where a fence crosses an open drain or water-course. R.S.O. 1950, c. 243, s. 388 (1), pars. 17-30.

Fences  
around  
private  
outdoor  
swimming  
pools

23. For requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools and for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates. 1957, c. 76, s. 21 (3).



*Fire Matters*

24. For acquiring land and erecting thereon a fire hall and for purchasing and installing fire engines, apparatus and appliances for fire-fighting and fire protection, and for issuing debentures therefor without the assent of the electors.

Fire halls,  
fire-fighting  
equipment

25. For appointing fire wardens, fire engineers and fire fighters and for promoting, establishing and regulating fire, hook-and-ladder and property-saving companies.

Establish-  
ing fire  
companies,  
etc.

26. For securing against accident by fire the inmates and employees and others in factories, hotels, boarding houses, lodging houses, warehouses, theatres, music halls, opera houses and other buildings used as places of public resort or amusement.

Providing  
against  
accidents  
by fire

27. For regulating smoking in retail shops in which ten or more persons are employed, or in any class or classes thereof, and for prohibiting smoking in such shops or any class or classes thereof, or in any part or parts thereof. R.S.O. 1950, c. 243, s. 388 (1), pars. 31-34.

Smoking  
in shops

28. For prescribing for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting out fires. R.S.O. 1950, c. 243, s. 388 (1), par. 36.

Prescribing  
times for  
setting fires  
and pre-  
cautions

29. For prohibiting or regulating the discharge of guns or other firearms, air-guns and spring-guns or any class or type thereof in the municipality or in any defined area or areas thereof.

Discharge of  
firearms

30. For regulating the sale of fireworks and for prohibiting the sale of fireworks on any day or days during the year.

Sale of  
fireworks

31. For prohibiting or regulating the setting off of fireworks in the municipality or in any defined area or areas thereof and for requiring a permit for the holding of fireworks displays and prescribing the conditions under which fireworks displays may be held under such permit. 1956, c. 50, s. 15 (1).

Setting off  
fireworks

32. For prohibiting the erection of wooden buildings or wooden additions, and of wooden fences, or the removal of any such building or fence from one place to another in defined areas of the municipality. R.S.O. 1950, c. 243, s. 388 (1), par. 39.

Wooden  
buildings

33. For prohibiting or regulating the use of fire or lights in factories, stables, cabinet makers' shops, carpenters' shops, paint shops, dye and cleaning works, and places where their use may cause or promote fire.

Fire in  
stables, etc.

34. For prohibiting or regulating the carrying on of manufactures or trades that may be deemed dangerous in causing or spreading fire. R.S.O. 1950, c. 243, s. 388 (1), pars. 44, 45.

Dangerous  
manufac-  
tures

- Chimney cleaning 35. For regulating and enforcing the proper cleaning of chimneys. R.S.O. 1950, c. 243, s. 388 (1), par. 48; 1959, c. 62, s. 18 (2).
- Removal of ashes 36. For regulating the mode of removal and safe keeping of ashes. R.S.O. 1950, c. 243, s. 388 (1), par. 49.
- Scuttles, ladders, etc., to roof 37. For requiring the owners and occupants of buildings to have scuttles in the roof, with approaches, or stairs or ladders leading to the roof.
- Guarding buildings against fire 38. For requiring buildings and yards to be put in a safe condition to guard against fire or other dangerous risk or accident.
- Fire buckets 39. For requiring each inhabitant to provide as many fire buckets in such manner and at such time as may be prescribed; and for regulating the inspection of them and their use at fires.
- Inspection of premises 40. For authorizing appointed officers to enter at all reasonable times upon any property in order to ascertain whether the provisions of the by-law are obeyed, and to enforce or carry into effect the by-law.
- Preventing spreading of fire 41. For suppressing fires, and for pulling down or demolishing buildings, or other erections when deemed necessary to prevent the spread of fire.
- Enforcing assistance at fires 42. For regulating the conduct and enforcing the assistance of persons present and for the preservation of property at fires.
- Regulations 43. For making such other regulations for preventing fires and the spread of fires as the council may deem necessary.

#### *Food and Fuel*

- Regulating the delivery or exposure for sale of meat, etc. 44. For regulating the delivery and exposure for sale upon a highway or in a market or public place of meat, poultry, game, flesh, fish or fruit, or the carcass of any animal.
- Inspection of provisions 45. For appointing inspectors, and for providing for the inspection of meat, poultry, fish and natural products offered for sale for human food, whether on the streets or in public places, or in shops.
- Seizing tainted food 46. For authorizing the seizing and destroying of tainted and unwholesome articles of food.
- Power to buy and sell fuel and food 47. With the approval of the Municipal Board and within the limitations and restrictions and under the conditions prescribed by order of the Board:
- i. For buying and storing fuel and such articles of food as may be designated by order of the Board and for selling them to dealers and residents of the municipality.

- ii. For acquiring land, erecting buildings, establishing, conducting and maintaining depots, stores, warehouses and yards and purchasing machinery, plant, appliances and equipment necessary for such purposes.
- iii. For appointing officers, clerks and servants to manage and conduct such businesses.
- iv. For making rules and regulations and doing all such other acts and things as may be necessary for the full and proper carrying out of such powers.
- v. For borrowing from time to time by the issue of debentures payable in not more than ten years from the date of issue the money necessary for such purposes.
- (a) The by-law need not be assented to by the electors, but requires a vote of two-thirds of all the members of the council.
- (b) After the by-law has been approved by the Municipal Board, it shall also be approved by the Lieutenant Governor in Council and may then be finally passed by the council.

#### *General*

48. For fixing the assessment of the property of any person carrying on or proposing to carry on within the municipality any manufacturing business including iron works, rolling mills, works for refining or smelting ores, grain elevators, a beet sugar factory and a tobacco drier, or the land and business of a cold storage plant to which aid by way of loan or grant has been or is being given by the governments of Canada and Ontario or either of them on such terms and conditions as the council may deem proper. Fixed assessment

- (a) The fixed assessment shall not be for a longer period Term than ten years, shall not be renewable and shall not apply to or affect taxation for school purposes or local improvements.
- (b) No by-law shall be passed granting a fixed assessment in respect of a business that has at any time Previous fixed assessment theretofore enjoyed a fixed assessment of the same property.
- (c) A by-law shall not be passed except with, firstly, Assent of electors, etc. the affirmative vote of not less than three-quarters of all the members of the council, and secondly, the assent of not less than two-thirds of the electors qualified to vote on money by-laws who vote on the by-law.



Who not to  
vote on  
by-law

- (d) No person to whom, and no person who is interested in or holds shares in a company, and no nominee of a corporation to which, a fixed assessment is to be granted is entitled to vote on the by-law.

When fixed  
assessment  
not to be  
granted

- (e) No by-law shall be passed granting a fixed assessment in respect of a branch of industry of a similar nature to one established in the municipality unless the person by whom it is carried on consents in writing to the granting of the fixed assessment.

Fixed  
assessment  
not to be  
granted to  
industry  
established  
elsewhere

- (f) No by-law shall be passed granting a fixed assessment in respect of a business established elsewhere in Ontario or that has been removed to the municipality from another municipality in Ontario whether the business is to be carried on by the same person or by a person deriving title or claiming through or under him or otherwise or by such person in partnership with another person or by a joint stock company or otherwise.

Bonus by  
fixed assess-  
ment only

- (g) Notwithstanding any general or special Act, the power of every municipal corporation in Ontario to grant bonuses in aid of any manufacturing business, including iron works, rolling mills, works for refining or smelting ores, grain elevators, a beet sugar factory and a tobacco drier, or the land and business of a cold storage plant to which aid by way of loan or grant has been or is being given by the governments of Canada and Ontario or either of them, is limited to a fixed assessment as provided in this paragraph.

Industrial  
sites

49. With the assent of the electors qualified to vote on money by-laws, or with the approval of the Department, for acquiring and expropriating land and selling or leasing the land for the purpose of sites for the establishment and carrying on of industries and industrial operations.

General  
by-law

- (a) The assent of the electors may be obtained by the submission of a general by-law authorizing the acquiring or expropriating of land for industrial sites and for borrowing money for that purpose not exceeding a stated amount, and, if the assent of the electors is obtained to the by-law, the council may by a two-thirds vote of all the members and without further assent of the electors pass by-laws from time to time to borrow money for that purpose by the issue of debentures payable within a term of not more than thirty years from the issue thereof.

Approval of  
sales and  
leases

- (b) No land acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario,

1937, or acquired under this paragraph, shall be sold or leased except with the approval of the Department, and no such approval shall be given if the price or rental is, in the opinion of the Department, less than the fair market value or fair rental value, as the case may be.

- (c) Where land acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or acquired under a by-law passed under this paragraph, is sold or leased with the approval of the Department, such sale or rental shall be deemed not to be a bonus within the meaning of clause g of paragraph 48. R.S.O. 1950, c. 243, s. 388 (1) pars. 51-63. Sales and leases here-under deemed not bonuses
- (d) Where land has been acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or under a by-law passed under this paragraph, and any debt is outstanding in respect of the acquisition of the land or in respect of any services supplied to the land, other than services supplied under *The Local Improvement Act*, all moneys received from the sale or lease of such land shall be used to retire the debt or shall be set aside as a fund to provide for the retirement of the debt unless the Department, upon the request of the council, approves the use of any of such moneys for another purpose; and, when the debt is retired or the amount in the fund is sufficient to provide for the complete retirement of the debt, the balance of such moneys on hand and any such moneys received thereafter shall be credited to the general funds of the municipality. 1951, c. 53, s. 16 (3). Application of receipts where debt outstanding  
R.S.O. 1960, c. 223
- (e) Any land acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or acquired under this paragraph, with the approval of the Department may be used by the municipality for the purposes of the municipality or may be sold to any local board, as defined in *The Department of Municipal Affairs Act*, for the purposes of such board. 1957, c. 76, s. 21 (5). Use of land by municipality  
R.S.O. 1960, c. 98

50. For providing by means of taxation for the establishment and maintenance of a fund for the support and aid of a civilian band or bands of music and for making annual or other grants from such fund to any civilian band or bands or to the members thereof. Establishing funds for bands

- (a) No by-law shall be passed under this paragraph unless the assent of the electors qualified to vote on money Assent of electors requisite

by-laws has first been obtained, and no by-law passed with such assent shall be repealed except with the like assent.

Submission  
of by-law on  
petition

- (b) Upon a petition for the establishment of a fund under this paragraph being presented to the council of a municipality signed by not less than 15 per cent in number of the electors qualified to vote on money by-laws according to the last revised voters' list, the council shall at the next ensuing municipal elections submit a by-law for the establishment of the fund for the assent of such electors and, if it is assented to, shall pass the by-law. R.S.O. 1950, c. 243, s. 388 (1), par. 64; 1957, c. 76, s. 21 (6).

Disqualify-  
ing electors  
in arrear  
for taxes

51. For disqualifying from voting an elector whose taxes on land on the day fixed for nomination at the municipal election are overdue and unpaid. R.S.O. 1950, c. 243, s. 388 (1), par. 65; 1957, c. 76, s. 21 (7).

By-laws  
authorizing  
undertakings  
and borrow-  
ing therefor

52. For authorizing the completion, improvement, alteration, enlargement or extension of any public utility undertaking, or any part or parts thereof, owned by the corporation and controlled and managed by the council or a public utility commission and for issuing debentures therefor.

Interpre-  
tation

- (a) In this paragraph,

(i) "public utility undertaking" means a water works or water supply system, sewage works, electrical power or energy generating transmission or distribution system, street lighting system, natural or artificial gas works or supply system, and a transportation system, and includes any lands, buildings or equipment required for the administration or operation of any such system,

(ii) "public utility commission" means a commission or board having the control and management of a public utility undertaking.

Assent of  
electors not  
required

- (b) No such by-law requires the assent of the electors if the by-law authorizing the undertaking has been approved by the Municipal Board and passed by a vote of three-fourths of all the members of the council.

Approval of  
Municipal  
Board

- (c) Such approval may be given if the Municipal Board is satisfied that the proposed work is in the public interest and that the proposed borrowing is required, and the Municipal Board shall have due regard to the financial position of the undertaking and to its



net revenues and to the additional revenue, if any, that might be derived as a result of the proposed work.

(d) This paragraph applies to any municipality operating any such undertaking under the authority of a special Act, and any provision in such special Act requiring the assent of the electors does not apply to the borrowing of money for the purposes of this paragraph. Application of paragraph

(e) This paragraph does not apply to a proposed work that the Department of Health has required a municipality to undertake, as provided in *The Public Health Act*, or that the Ontario Water Resources Commission has required a municipality to undertake, as provided in *The Ontario Water Resources Commission Act*. Idem R.S.O. 1960, cc. 321, 281

(f) The council of a township may exercise the powers conferred by this paragraph in respect of the whole township or any defined area thereof. R.S.O. 1950, c. 243, s. 388 (1), par. 66; 1956, c. 50, s. 15 (2, 3); 1958, c. 64, s. 29 (2, 3). Defined areas in townships

53. For acquiring, establishing, constructing, maintaining and operating a street lighting system. 1958, c. 64, s. 29 (4). Street lighting systems

54. For requiring the occupants of any designated class of building in the municipality or any defined area thereof to clear away and remove snow and ice from the roofs of such buildings and for requiring the occupants of any designated class of building in the municipality or any designated area thereof to clear away and remove snow and ice from the sidewalks on the highways in front of, alongside or at the rear of such buildings and for regulating when and the manner in which the same shall be done. Removal of snow and ice from roofs and side-walks of occupied premises

55. For clearing away and removing snow and ice from the roofs of any designated class of unoccupied buildings in the municipality or any designated area thereof and for clearing away and removing snow and ice from the sidewalks on the highways in front of, alongside or at the rear of any designated class of unoccupied buildings or vacant lands at the expense of the owners and for collecting or recovering the expenses incurred in so doing in the manner provided by section 485. R.S.O. 1950, c. 243, s. 388 (1), pars. 67, 68. Removal of snow and ice from roofs and side-walks of unoccupied premises

56. For clearing away and removing snow and ice from the sidewalks on any highway or part of a highway or any class thereof in front of, alongside or at the rear of any occupied or unoccupied building or vacant lot, or any class thereof, at the Removal of snow and ice from sidewalks

expense of the owners, and for collecting or recovering the expenses incurred in so doing in any manner including the manner provided by section 485. 1953, c. 70, s. 12, *part*.

Right to  
enter  
adjoining  
lands

57. For permitting an owner or occupant of any building or the agent or employee of such owner or occupant to enter upon any adjoining land for the purpose of making repairs, alterations or improvements to such building but only to the extent necessary to effect such repairs, alterations or improvements, and every such by-law shall provide that the adjoining land shall be left in the same condition it was in prior to such entry. R.S.O. 1950, c. 243, s. 388 (1), par. 69.

Sparring  
exhibitions  
and boxing  
matches

58. For prohibiting sparring exhibitions and boxing matches, where an admission fee is charged, without the written permission of the chief constable in a city or town, or of the reeve in townships and villages. R.S.O. 1950, c. 243, s. 388 (1), par. 71.

Motor  
vehicle and  
motorcycle  
racing

59. For prohibiting, or for licensing, regulating and governing, the racing of motor vehicles or motorcycles, or one or more defined classes thereof, in the municipality or one or more defined areas thereof; and for prohibiting, or for licensing, regulating and governing, the holding of motor vehicle or motorcycle races, or one or more defined classes thereof, in the municipality or one or more defined areas thereof. 1952, c. 63, s. 16 (3), *part*.

Corporation  
surveyor  
and  
engineers

60. For appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more engineers.

Powers of  
engineer

(a) An engineer so appointed and his assistants, in the performance of their duties, possess all the powers, rights and privileges that a surveyor possesses under section 6 of *The Surveys Act*.

R.S.O. 1960,  
c. 390

Destruction  
of tussock  
moths

61. For requiring persons to destroy all tussock moths and the cocoons thereof on trees or elsewhere upon the premises owned or occupied by them.

### *Health, Sanitation and Safety*

Bathing

62. For prohibiting or regulating the bathing or washing of the person in any public water in or near the municipality. R.S.O. 1950, c. 243, s. 388 (1), pars. 72-74.

Adequate  
heat in  
rented  
accommoda-  
tion

63. For requiring the maintenance of adequate and suitable heat for rented or leased dwelling or living accommodation that, as between tenant or lessee and the landlord, is normally heated by or at the expense of the landlord, for defining adequate and suitable heat for such purposes and for providing for the inspection of such dwelling or living accommodation. 1956, c. 50, s. 15 (4).

64. For requiring the owners, contractors or master workmen engaged in the erection or construction of buildings or public works to provide for the use of the workmen, employed in such erection or construction, closet accommodation, to be approved of by the medical health officer, in connection with them.

Conveniences to be provided by builders

65. For providing blank forms for recording and reporting cases of contagious or infectious diseases, for placarding houses wherein such cases exist, and for taking such measures as may be deemed necessary for preventing the spread of such diseases. R.S.O. 1950, c. 243, s. 388 (1), pars. 75, 76.

Contagious diseases

66. For requiring the use within the municipality or a defined area of it of dry earth closets.

Dry earth closets

67. For providing that the cleaning and disposing of the contents of cesspools, water closets, earth closets, privies and privy vaults shall be done exclusively by the corporation.

Expenses of cleaning closets, etc.

(a) For such purpose, the corporation, its officers and servants have all the powers of the local board of health and its officers and servants.

Powers

(b) The council may provide for the expense incurred in such work by imposing in the by-law authorizing the work or in a separate by-law a fixed fee or graded fees varying according to the different kind of premises served, the time involved in service and such other matters as the council may consider applicable, and such fees shall be rated and assessed against the lands in respect of which such services are rendered in the collector's roll of the municipality and collected and recovered in like manner as municipal taxes.

Fixed or graded fees

(c) The council may provide that the collection, removal and disposal by the corporation of the contents of earth closets or other sanitary closets throughout the whole municipality, or in defined areas of it, shall be done at the expense of the owners, householders or occupants of the land therein, and where such service is at the expense of the owner may impose upon such land a special rate according to its assessed value which shall be collected and recovered in like manner as municipal taxes, or may impose upon the owners, householders and occupants of any building on such land a monthly rate in lieu of such special rate which shall be collected and recovered in like manner as municipal taxes.

Special rate, assessed value or monthly

68. For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yard and vacant lots and the altering, relaying or repairing of private drains.

Filling up, draining, etc., private drains



Regulations  
for sewerage,  
etc.

69. For making any other regulations for sewage or drainage that may be deemed necessary for sanitary purposes. R.S.O. 1950, c. 243, s. 388 (1), pars. 78-81.

Sewage  
works

70. For establishing, acquiring, operating and maintaining sewage works, including sewers, pumping plants, treatment works and other like works necessary for a sewer system, and for regulating the operation and maintenance thereof. 1953, c. 70, s. 12, *part*; 1957, c. 76, s. 21 (8).

Drain  
connections

71. For constructing service drains from a sewer to the line of the highway and for charging the owner of the premises for which the service drain is constructed the cost of such construction, which may be collected or recovered in like manner as taxes. 1953, c. 70, s. 12, *part*.

Closing and  
filling up  
cesspools,  
etc.

72. For requiring owners, lessees and occupants of land in the municipality or any defined area of it to close or fill up water closets, privies, privy vaults, wells or cesspools, the continuance of which may, in the opinion of the council or the medical health officer, be dangerous to health.

Obstruction  
of drains

73. For prohibiting the obstruction of any drain or watercourse, and for permitting and regulating the size and mode of construction of culverts and bridges that cross any drain or watercourse situate on a public highway. R.S.O. 1950, c. 243, s. 388 (1), pars. 82, 83.

Plumbing  
inspection  
fees

74. For charging a fee for the inspection of plumbing, sewers, septic tanks, cesspools, water closets, earth closets, privies and privy vaults where, under this or any other Act, approval or a certificate of compliance or such inspection is required. 1953, c. 70, s. 12, *part*.

Collection,  
removal and  
disposal of  
garbage, etc.

75. For establishing and maintaining a system for the collection, removal and disposal of garbage or of garbage and other refuse or of ashes, garbage and other refuse, and for contracting with any person for the collection, removal and disposal by him of ashes, garbage and other refuse upon such terms and conditions as may be deemed expedient, and for acquiring land within the municipality or in any adjacent municipality with the consent of the council thereof for any of the purposes of this paragraph, and for erecting and maintaining with the approval of the Department of Health such buildings, machinery and plant as may be deemed necessary for the purposes of this paragraph.

(a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor in respect of any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof.

76. For entering into agreement with any adjoining municipality for the disposal by such municipality of ashes, garbage and other refuse upon such terms and conditions as may be deemed expedient. Agreement re garbage disposal with adjoining municipality

77. For the collection, removal and disposal by the corporation of garbage or of garbage and other refuse or of ashes, garbage and other refuse throughout the whole municipality or in defined areas of it at the expense of the owners and occupants of the land therein, and for imposing upon such land according to its assessed value a special rate to defray the expense of such collection, removal and disposal. Special rate for cost

- (a) Subject to clause c, no land is exempt from the special rate, notwithstanding anything to the contrary in any general or special Act or in any by-law. No land exempt
- (b) The special rate may be collected or recovered in the manner provided by section 485. Recovery of special rate
- (c) In the case of a place of worship, the council may by by-law provide that the special rate shall be imposed upon the land according to its assessed value exclusive of the assessed value of the buildings. Special rate on churches

78. For charging the owners, householders or occupants of any building in the municipality a monthly rate in lieu of the special rate for such collection, removal and disposal of ashes, garbage or other refuse and for providing that the monthly rate may be collected or recovered in the manner provided by section 485 and for the exemption of any class of land owners, householders or occupants from the monthly rate. Monthly rates

79. For regulating and inspecting the construction and erection of hoists, scaffolding and other apparatus and appliances used in erecting, repairing, altering or improving buildings, chimneys, or other structures, and for making regulations for the protection and safety of workmen and others employed thereon; and for appointing inspectors of scaffolding. R.S.O. 1950, c. 243, s. 388 (1), pars. 84-88. Construction of hoists, scaffolding, etc.

80. For regulating and controlling the excavating of trenches and persons doing work in connection therewith and prescribing requirements in respect of the excavating and use of trenches for the protection of persons working therein; and for requiring the submission of plans of trenches and of the shoring and timbering thereof and for charging fees for the inspection and approval of such plans, and for providing for the issue of permits certifying to such approval without which permit no trench may be excavated and for fixing the fees for such permits and for revoking such permits. 1954, c. 56, s. 21 (3). Excavating trenches

Maintaining  
public con-  
veniences

81. For constructing and maintaining lavatories, urinals, water closets and like conveniences, where deemed requisite, upon the highways or elsewhere, and for supplying them with water, and for defraying the expense thereof and of keeping them in repair and good order. R.S.O. 1950, c. 243, s. 388 (1), par. 89.

Investiga-  
tions and  
reports as to  
utilities

82. For procuring investigations and reports as to water works or water supply systems, electrical power or energy generating, transmission or distribution systems, natural or artificial gas works or supply systems, sewer, sewer systems or sewage works, or transportation systems, and may issue debentures therefor.

- (a) It is not necessary to procure the assent of the electors to any by-law passed under this paragraph.
- (b) Instead of making a separate issue of debentures to defray the expenses of such investigation and report, the council may provide that such expenses shall be included in the cost of the work and be paid out of the proceeds of any debentures issued therefor. 1952, c. 63, s. 16 (3), *part*; 1956, c. 50, s. 15 (5).

Extension  
of sewers  
into adjoining munici-  
pality

83. Where a local municipality is so situate that it is necessary, in order to procure an outlet for a sewer or to connect it with a sewage farm, to extend it into or through an adjacent municipality, for so extending it, or for extending and connecting it with any existing sewer of such adjacent municipality, upon such terms and conditions as may be agreed upon or, in case of failure to agree, as may be determined by arbitration.

- (a) Where the council of the adjacent municipality objects to allow such extension or connection, the arbitrator shall determine not only the terms and conditions upon which the extension or connection is to be made, but also the location of the sewage farm, filtering plant or artificial means of sewage disposal that is contemplated, and whether the extension or connection should be allowed to be made.
- (b) Nothing in this paragraph authorizes the making of an open drain or sewer, or affects *The Ditches and Watercourses Act*, or limits any of the powers conferred on townships by that Act.

R.S.O. 1960,  
c. 109

Slaughter  
houses

84. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law, provided that in towns, villages and townships this paragraph does not apply to the slaughter of animals for the use of the person killing them or of his family. R.S.O. 1950, c. 243, s. 388 (1), pars. 90, 91.



*Trailers and Trailer Camps*

85. For prohibiting the use, and for prohibiting the owner <sup>Trailers</sup> or lessee of any trailer from permitting the use, of any trailer for the living, sleeping or eating accommodation of persons, within the municipality or one or more defined areas thereof, for more than such number of days, not less than sixty, as the by-law provides, in any period of ten consecutive months.

- (a) In this paragraph, "trailer" means any vehicle so <sup>Interpre-</sup> constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for the living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked-up or that its running gear is removed.
- (b) A by-law passed under this paragraph may be made <sup>Application</sup> to apply to any trailer whether or not such trailer was <sup>of by-law</sup> used for the living, sleeping or eating accommodation of persons before the by-law was passed.
- (c) The by-law may provide for imposing penalties of not <sup>Penalties</sup> less than \$10 and not more than \$50, exclusive of costs, upon every person who contravenes the by-law, and may provide that each day that a person contravenes the by-law shall be deemed to constitute a separate offence. 1952, c. 63, s. 16 (3), *part*.
- (d) For the purposes of this paragraph, a trailer shall be <sup>Use</sup> deemed to be in use on every day it is located in the municipality or in the defined area or areas, as the case may be, but this clause does not apply where the trailer is located in the municipality or the defined area or areas only for the purpose of sale or storage. 1955, c. 48, s. 39 (2).

86. For licensing trailers, as defined in paragraph 85, <sup>Licensing of</sup> located in the municipality, except in a trailer camp, for thirty <sup>trailers</sup> days or longer in any year and for prohibiting such trailers being located in the municipality, except in a trailer camp, without a licence therefor.

- (a) No by-law passed under this paragraph applies to a <sup>Application</sup> trailer when located in the municipality only for the <sup>of by-law</sup> purpose of sale or storage.
- (b) Licence fees may be charged for every month or por- <sup>Licence fees</sup> tion of a month that the trailer is located in the municipality and the licence fees, except for the first thirty days, may be made payable in advance, but no licence fee shall be more than \$20 per month. 1956, c. 50, s. 15 (6); 1960, c. 69, s. 18 (1).

Municipal  
trailer  
camps

87. For acquiring, establishing, maintaining and operating trailer camps or trailer parks and for acquiring land for such purposes and for installing such services for the use of the occupants of the trailer camps or trailer parks as the council may deem expedient and for fixing the fees to be paid by the occupants of the trailer camps or trailer parks.

- (a) In this paragraph, "trailer camp" or "trailer park" means land in or upon which any vehicle, so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, is placed, located, kept or maintained, notwithstanding that such vehicle is jacked-up or that its running gear is removed, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein.
- (b) Where a municipal corporation operates a trailer camp or trailer park, the corporation shall pay to the public school board, separate school board or high school board, as the case may be, for each child residing in a trailer in the trailer camp or trailer park and attending a school under the jurisdiction of the board such fees monthly as may be prescribed by the board concerned for non-resident pupils, but the fees shall not exceed the average cost per pupil of the maintenance of the school for the next preceding calendar year less legislative grants. 1957, c. 76, s. 21 (9).

### *Highways and Sidewalks*

Bus  
franchises  
R.S.O. 1960,  
c. 255

88. Subject to *The Municipal Franchises Act*, for entering into agreement with any person for a period not exceeding ten years for granting to such person the exclusive right to maintain and operate buses, for the conveyance of passengers in a defined area of the municipality, over such highways in the area and at such rates for fares and charges and on such other terms and conditions as may be thought proper.

- (a) The agreement may provide that any deficit in operation shall be met by a special rate levied on all the rateable property in the defined area.
- (b) The defined area shall not include any part of the municipality covered by an agreement to which the corporation is a party respecting the furnishing of transportation facilities for passengers.
- (c) The agreement does not affect a licence granted under *The Public Vehicles Act*.

R.S.O. 1960,  
c. 337

- (d) The rates for fares and charges may from time to time, but only once in any year, be increased or decreased by the Municipal Board on the application of the corporation in consequence of a deficit or surplus in the operation of the service.

89. For prohibiting or regulating coasting or tobogganing on the highways. Coasting and tobogganing

90. For prohibiting children from riding on the platforms of cars, or riding behind or getting on wagons, sleighs or other vehicles while in motion, and for preventing accidents arising from such causes. Prohibiting children from riding behind wagons, etc.

91. For allowing any person owning or occupying any building or other erection that by inadvertence has been wholly or partially erected upon any highway to maintain and use such erection thereon and for fixing such annual fee or charge as the council may deem reasonable for such owner or occupant to pay for such privilege. Buildings encroaching on highway

- (a) Such fee or charge forms a charge upon the land used in connection therewith and is payable and payment of it may be enforced in like manner as taxes are payable and the payment of them may be enforced, but nothing herein affects or limits the liability of the municipality for all damages sustained by any person by reason of any such erection upon a highway.

92. For permitting the use of a portion of any highway or boulevard by the owner or occupant of land adjoining such highway or boulevard during building operations upon such land for the storage of materials for such building or for the erection of hoardings; for fixing and collecting a fee or charge for such use according to the area occupied and the length of time of such occupation, and for regulating the placing of such materials or hoardings, the restoration of such highway or boulevard to its original condition, the payment of such fee or charge, and the giving of permits for such privilege. R.S.O. 1950, c. 243, s. 388 (1), pars. 92-96. Use of highway or boulevard during building operations

93. For permitting window air-conditioners, cornices, eaves, awning containers, awning covers, sills, brackets and other similar projections beyond the main walls of buildings to encroach upon a highway at a height of not less than eight feet above the grade thereof established by the corporation. R.S.O. 1950, c. 243, s. 388 (1), par. 97; 1956, c. 50, s. 15 (7). Projections

94. For permitting existing buildings to encroach or further encroach upon a highway to such extent, not exceeding two inches, as may be necessary to provide for refacing any such building. 1957, c. 76, s. 21 (10). Refacing encroachments on highways



Marking the  
boundaries  
of and  
naming  
streets, etc.

95. To provide for surveying, settling and marking the boundary lines of highways and giving names to them or changing their names, and for affixing the names at the corners thereof, on public or private property.

Proceedings  
for changing  
names of  
streets

- (a) A by-law for changing the name of a highway does not have any force or effect unless passed by a vote of at least three-fourths of all the members of the council, or until a copy of it certified under the hand of the clerk and the seal of the corporation has been registered in the registry office of the proper registry division.
- (b) A by-law for changing the name of a highway in a city or town shall state the reason for the change, and shall not be finally passed until it has been approved by a judge of the county or district court of the county or district in which the municipality is situate.
- (c) The judge, on the application of the council, shall appoint a day, hour and place for considering the by-law and for hearing those advocating and opposing the change.
- (d) A copy of the by-law and of the appointment shall be served on the registrar of the registry division in which the municipality is situate at least two weeks before the time appointed, and a notice of the application in such form as the judge may approve shall be published once in *The Ontario Gazette* at least two weeks before the time so appointed, and at least once a week for four successive weeks in such other newspaper or newspapers as the judge may direct.
- (e) If the judge approves of the change, he shall so certify and his certificate shall be registered with the by-law, and the change shall take effect from the date of registration.

Laying of  
poles, wires,  
pipes or  
conduits on  
street  
R.S.O. 1960,  
c. 255

96. For regulating and, subject to *The Municipal Franchises Act* and on such terms and conditions as the council may deem expedient, for authorizing the erection and maintenance of electric light, power, telegraph and telephone poles and wires and poles and wires for the transmission of electricity across or along any highway or public place, or permitting any person supplying electricity for light, heat or power to lay down pipes or conduits for enclosing wires for the transmission of electricity under any highway or public place, provided that a by-law shall not be passed under this paragraph in violation of any agreement of the corporation.

97. Subject to *The Power Commission Act*, for constructing or laying down pipes or conduits for enclosing wires for the transmission of electricity under, or for erecting towers or poles for the support of wires for such purpose across or along, any highway or public place, and for entering into agreements with electric light or power, telegraph or telephone companies for the use by them of such pipes, conduits or poles, for such consideration and on such terms and conditions as may be agreed upon.

Laying  
pipes or  
conduits for  
electric  
wires

98. For authorizing any person supplying steam for heat or power to lay down pipes or conduits for transmitting steam under the highways or public squares, on such terms and conditions as the council may deem expedient.

Transmit-  
ting steam  
under  
highways

- (a) A by-law shall not be passed under the authority of this paragraph in violation of any agreement of the corporation. R.S.O. 1950, c. 243, s. 388 (1), pars. 98-101.

99. Notwithstanding the other provisions of this Act or any other general or special Act but subject to *The Power Commission Act* and *The Public Utilities Act*, for authorizing and regulating,

Transmission  
poles, wires,  
etc.  
R.S.O. 1960,  
cc. 300, 335

- i. the erection and maintenance upon, across or along any highway or public place of poles, towers, wires, cables, amplifiers and other accessory equipment, and the construction and laying down of pipes, ducts and conduits for enclosing wires, cables, amplifiers and other accessory equipment, for the purpose of transmitting electrical or electric impulses, signals and messages of every nature and kind, including those of alarm and protective systems, radio programmes or parts thereof, and television programmes or parts thereof, and
- ii. the placing and maintenance of such equipment upon and within any poles, towers, pipes, ducts and conduits then erected, constructed or laid down, with the consent of the owner and the body in which is vested the management and control of such poles, towers, pipes, ducts and conduits.

- (a) For the purposes of this paragraph, "body" means The Hydro-Electric Power Commission of Ontario in respect of its works and a local board, as defined in *The Department of Municipal Affairs Act*, in respect of its works.

R.S.O. 1960,  
c. 98

- (b) A by-law passed under this paragraph may be in respect of the whole of the municipality or a defined area or defined areas thereof, and any such area may be enlarged, reduced, dissolved or amalgamated at the discretion of the council and section 15 does not apply.
- (c) Nothing in this paragraph authorizes the granting of an exclusive franchise or the establishment of a monopoly. 1953, c. 70, s. 12, *part*; 1956, c. 50, s. 15 (8).

Water and  
gas pipes  
in highways  
R.S.O. 1960,  
c. 255

100. Subject to *The Municipal Franchises Act*, for authorizing the laying down, maintenance and use of pipes and other necessary works for the transmission of water, gas or sewage on, in, under, along or across any highway under the jurisdiction of the council. R.S.O. 1950, c. 243, s. 388 (1), par. 102; 1952, c. 63, s. 16 (4).

Driving,  
etc., upon  
sidewalks

101. For prohibiting the leading, riding or driving of horses or cattle upon sidewalks or in other places not proper therefor.

Spitting on  
sidewalks,  
in public  
buildings,  
etc.

102. For prohibiting spitting on sidewalks and pavements, and in the passages and stairways of and entrances to public buildings, and in buildings, halls, rooms and places to which the public resort, in street cars and public conveyances and in such other public places as may be designated in the by-law.

Use of  
highways  
to solicit  
business

103. For prohibiting persons from soliciting or importuning, on a highway or in a public place, others to travel in or employ any vessel or vehicle, or to go to any hotel or boarding house or lodging house, or for regulating persons so employed.

- (a) A by-law passed under the authority of this paragraph may be made applicable only to one or more highways or public places named therein or to any defined area.

Telephone  
booths

104. For authorizing the erection of public telephone booths upon the highways or lands of the municipality upon such terms and conditions as may be agreed upon; and for making such annual or other charge for the privilege conferred as the council may deem reasonable. R.S.O. 1950, c. 243, s. 388 (1), pars. 103-106.

Regulating  
traffic  
R.S.O. 1960,  
c. 172

105. Subject to *The Highway Traffic Act*, for regulating traffic on the highways and for prohibiting heavy traffic as defined in the by-law and the use of traction engines and the driving of cattle, sheep, pigs and other animals during the whole or any part of the day or night in certain highways and public places specified in the by-law, and for prohibiting traffic in any but one direction in highways that, in the opinion of the council, are too narrow for the passing of one vehicle by another or in which, in the opinion of the council, it is desirable that traffic should be limited to one direction.



- (a) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking provisions of the by-law have been contravened, and, if payment is not made in accordance with the procedure, subsection 2 of section 482 applies. R.S.O. 1950, c. 243, s. 388 (1), par. 107; 1956, c. 50, s. 15 (9). Expeditious procedures authorized for parking offences

106. Subject to the approval of the Minister of Transport, to establish all or any part of any street solely or principally as a way for the use of pedestrians and for prohibiting the use thereof by vehicles or any class thereof except to such extent or for such period or periods as may be specified. 1960, c. 69, s. 18 (2), *part*. Pedestrian ways or malls

107. For setting aside and designating in a suitable visible manner, on any highway upon which street cars or buses are operated, any part or parts as a "safety zone" and for prohibiting motor or other vehicles from driving over or upon any such safety zone while any pedestrian is thereon or about to enter thereon. R.S.O. 1950, c. 243, s. 388 (1), par. 108. Safety zones

108. For prohibiting the parking or leaving of motor vehicles on private property without authority from the owner or occupant of such property and providing for the removal and impounding of any vehicle so parked or left at the expense of the owner thereof. Prohibiting unauthorized parking on private property

- (a) Clause *a* of paragraph 105 applies to penalties provided by a by-law passed under this paragraph.

- (b) Subsection 11 of section 89 of *The Highway Traffic Act* applies to a by-law passed under this paragraph. R.S.O. 1960, c. 172

- (c) The driver of a motor vehicle, not being the owner, is liable to any penalty provided under a by-law passed under this paragraph and the owner of the motor vehicle is also liable to such a penalty unless at the time the offence was committed the motor vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent.

- (d) The driver or owner of a motor vehicle parked or left on private property is not liable to a penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the written complaint of the occupant or any adult resident of the property. 1958, c. 64, s. 29 (5).

109. Requiring all residents in the municipality owning and using any wheeled vehicle or any kind or class thereof other than a motor vehicle and a trailer as defined in *The Highway* Licensing users of wheeled vehicles

*Traffic Act* to obtain a licence therefor before using it upon any highway of the municipality; limiting the weight or size of loads that may be carried thereon; regulating the issuing of such licences and the collection of fees therefor; fixing an annual fee not exceeding \$1 for such licences; fixing a scale of fees for different vehicles; imposing penalties not exceeding \$5 exclusive of costs upon all persons who contravene any such by-law; and providing that such penalties may be recoverable in the manner provided by this Act. R.S.O. 1950, c. 243, s. 388 (1), par. 109; 1951, c. 53, s. 16 (5); 1955, c. 48, s. 39 (3).

*Nuisances, Signs, etc.*

Gas works,  
distilleries,  
etc.

110. For prohibiting or regulating the erection or continuance of gas works, tanneries or distilleries or other manufactories or trades that, in the opinion of the council, may prove to be or may cause nuisances.

Noxious manufac-  
tures and  
trades

111. For regulating manufactures and trades that in the opinion of the council may prove to be or may cause nuisances. R.S.O. 1950, c. 243, s. 388 (1), pars. 110, 111.

Control of  
land used  
for disposal  
of refuse

112. For prohibiting or regulating and inspecting the use of any land or structures within the municipality or any defined area or areas thereof for dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind.

(a) A by-law under this paragraph,

(i) may establish a schedule of fees chargeable upon inspection of such regulated land or structures,

(ii) may require the owners, lessees or occupants of such land or structures, at the expense of the owners, lessees or occupants, to cease using such land or structures for such purposes, or to cover over any garbage, refuse, or domestic or industrial waste in any prescribed manner, whether or not such land or structures were so used before the passing of the by-law,

(iii) may define industrial or domestic waste.

Storing  
motor  
vehicles for  
salvage

113. For prohibiting or regulating and inspecting the use of any land or structures for storing used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal. 1955, c. 48, s. 39 (4).

Noise

114. For prohibiting or regulating the ringing of bells, the blowing of horns, shouting and unusual noises, or noises calculated to disturb the inhabitants. R.S.O. 1950, c. 243, s. 388 (1), par. 112.

115. For licensing, regulating and governing the owners <sup>P.A. systems, etc.</sup> or operators of public address systems, sound equipment, loud speakers or similar devices when used on a highway, public lands or lands adjacent thereto, or when emitting sound thereto. 1951, c. 53, s. 16 (6).

116. For prohibiting and abating public nuisances.

Nuisances

117. For prohibiting the hauling of dead horses, offal, night <sup>Hauling dead horses, etc., through the streets in daylight</sup> soil or any other offensive matter or thing along any highway during the hours of daylight. R.S.O. 1950, c. 243, s. 388 (1), pars. 113, 114.

118. For prohibiting the carrying on or operation of a pit <sup>Operation of pits and quarries</sup> or quarry in any area in which the use of land is restricted to residential or commercial use by a by-law passed, or an official plan adopted, before the 1st day of January, 1959, provided no by-law passed under this paragraph shall come into force until approved by the Municipal Board or shall apply to a pit or quarry made or established before the 1st day of January, 1959, except to prohibit the enlargement or extension of any such pit or quarry beyond the limits of the land owned and used in connection therewith on the 1st day of January, 1959. 1959, c. 62, s. 18 (3).

119. For regulating the operation of pits and quarries <sup>Pits and quarries</sup> within the municipality and for requiring the owners of pits and quarries that are located within 300 feet of a road and that have not been in operation for a period of twelve consecutive months to level and grade the floor and sides thereof and the area within 300 feet of their edge or rim so that they will not be dangerous or unsightly to the public. 1958, c. 64, s. 29 (6).

120. For regulating the location, erection and use of stables, <sup>Location of stables, garages, etc.</sup> garages, barns, outhouses and manure pits.

121. For prohibiting the posting or exhibition of placards, <sup>Indecent placards, etc.</sup> play bills, posters, writing or pictures or the writing of words, or the making of pictures or drawings, which are indecent or may tend to corrupt or demoralize, on any wall or fence or elsewhere on a highway or in a public place.

122. For prohibiting or regulating the erection of signs or <sup>Posters</sup> other advertising devices and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway. R.S.O. 1950, c. 243, s. 388 (1), pars. 116-118.

123. For prohibiting or regulating the nailing or other- <sup>Attaching of things to property of public utility</sup> wise attaching of anything or the causing of anything to be so nailed or otherwise attached to or upon any property managed and controlled by a public utility commission or of a local



board as defined in subclause ii of clause *a* of paragraph 59 of section 377. 1960, c. 69, s. 18 (2), *part*.

Pulling  
down of  
signs and  
notices

124. For prohibiting the pulling down or defacing of signs or other advertising devices and notices lawfully affixed. R.S.O. 1950, c. 243, s. 388 (1), pars. 116-119.

Control of  
sewage

125. For prohibiting and regulating the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not. 1953, c. 70, s. 12, *part*.

### *Trades and Businesses*

Fixing time  
for delivery  
of coal

126. For requiring every dealer in coal who takes orders for coal for future delivery, and accepts payment in full or on account of such order, to deliver to the purchaser the coal so ordered within the time or times fixed by the by-law. R.S.O. 1950, c. 243, s. 388 (1), par. 120.

Public  
garages,  
licensing, etc.

127. For licensing and regulating the owners or operators of public garages, and for fixing the fees for such licences, and for revoking such licences, and for imposing penalties for breaches of such by-law and for the collection thereof.

(*a*) For the purpose of this paragraph, a public garage includes an automobile service station as defined in clause *a* of paragraph 128, a parking station or a parking lot or a building or place where motor vehicles are hired or kept or used for hire or where such vehicles or gasoline or oils are stored or kept for sale, and a building or place used as a motor vehicle repair shop or for washing or cleaning motor vehicles. R.S.O. 1950, c. 243, s. 388 (1), par. 121; 1958, c. 64, s. 29 (7); 1959, c. 62, s. 18 (4).

Automobile  
service  
stations  
in restricted  
areas

128. For licensing, regulating and governing the owners or keepers of automobile service stations located or erected since the 25th day of June, 1928, within any defined area or areas or on land abutting on any defined highway or part of a highway in which area or areas or on which land the erection or location of garages to be used for hire or gain or gasoline and oil filling stations was on the said date or at any time thereafter prohibited by a by-law, and for fixing a fee not exceeding \$10 for such licence, and for providing that a licence shall not be granted to any person as an owner of a public garage located or erected within any such area or on any such land notwithstanding that prior to the passing of this section any such person may have been granted a licence as the owner of a public garage.

(a) For the purposes of this paragraph, an automobile service station means a building or place where gasoline, oil, grease, anti-freeze, tires, tubes, tire accessories, electric light bulbs, sparkplugs and batteries for motor vehicles are stored or kept for sale, or where motor vehicles may be oiled, greased, or washed, or have their ignition adjusted, tires inflated or batteries charged, or where only minor or running repairs essential to the actual operation of motor vehicles are executed or performed.

(b) No person owning or keeping an automobile service station licensed under this paragraph shall use or permit it to be used for the purpose of wrecking, parking, storing or selling motor vehicles, or, except in an enclosed building, for washing motor vehicles, or for vulcanizing tires or tubes or for exhibiting for sale any accessories mentioned in clause *a* except in an enclosed building, or for exhibiting the same for sale in any display window, or for performing therein any repairs to motor vehicles other than those mentioned in clause *a*, or for storing and keeping for sale any article, accessory or merchandise of any kind other than those expressly mentioned in clause *a* hereof, and it is the duty of such owner or keeper to prevent the use of an automobile service station for any such prohibited purpose.

(c) The owner or keeper of an automobile service station guilty of any infraction of any of the provisions of clause *b* is subject to the penalties set forth in the by-law permitting the location or erection thereof or the licensing of the same as for an infraction of such by-law.

(d) Nothing in this paragraph shall be deemed to authorize the location or erection of any automobile service station contrary to any by-law in force under section 30 of *The Planning Act* or a predecessor of such section. R.S.O. 1950, c. 243, s. 388 (1), par. 122. R.S.O. 1960,  
c. 296

(e) A licence may be required under this paragraph in addition to a licence under paragraph 127. 1958, c. 64, s. 29 (8).

129. For limiting the number of public garages and automobile service stations where gasoline is stored or kept for sale. Limitation  
of number  
of garages,  
etc.

130. For regulating, controlling and inspecting heating and cooking appliances, or any classes thereof, the installation thereof and the storage of fuel for use in connection therewith. Heating and  
cooking  
equipment

Persons  
installing  
heating  
equipment

131. For licensing, regulating and governing persons engaged in the installation of hot air, hot water and steam heating equipment of any kind. R.S.O. 1950, c. 243, s. 388 (1), pars. 123-125.

Adoption of  
codes and  
standards

132. For the purposes of any by-law passed under paragraph 130 or 131, or paragraph 6 of section 31 of *The Planning Act*, for adopting by reference to the Ontario Regulations as amended from time to time the codes and standards or the parts thereof as adopted and changed by the Ontario Energy Board by regulation under *The Ontario Energy Board Act*. 1958, c. 64, s. 29 (9).

R.S.O. 1960,  
cc. 271, 296

Lending  
libraries

133. For licensing, regulating and governing lending libraries that are carried on or operated for the purpose of profit or gain.

(a) The fee to be paid for the licence shall not exceed \$2.

(b) Nothing in this paragraph applies to or affects the lending or circulation of books, magazines, periodicals or other printed works by any religious body or incorporated educational institution.

Lodging  
houses

134. For licensing, regulating and governing lodging houses and the keepers of lodging houses, and for revoking any such licence.

(a) In this paragraph, "lodging house" means any house or other building or portion thereof in which persons are harboured, received or lodged for hire but does not include an hotel, hospital, home for the young or the aged or institution, provided the hotel, hospital, home or institution is licensed, approved or supervised under any general or special Act.

(b) A by-law passed under this section may provide for the licensing, regulating and governing of any class or classes of lodging houses or lodging house keepers, and may provide for the issue and revocation of licences by the local board of health and for prohibiting the use of premises licensed under the by-law except for the purposes for which the licence was issued and may fix the licence fee for any class or classes of lodging houses in accordance with a scale for each class or the number of inmates permitted in the lodging house. R.S.O. 1950, c. 243, s. 388 (1), pars. 126, 127.

#### *Special Provisions re Townships*

Certain  
by-laws of  
townships

(2) A by-law passed by the council of a township under any of paragraphs 32 to 43 of subsection 1 may be made applicable



to the township or one or more defined areas thereof as set out in the by-law.

(3) A by-law passed by the council of a township under *Idem* paragraph 81 of subsection 1 may provide that the expenses mentioned in the paragraph shall be defrayed by a special rate upon the rateable property in the whole township or in one or more defined areas thereof as set out in the by-law. R.S.O. 1950, c. 243, s. 388 (2, 3).

**380.—(1)** In this section,

Interpre-  
tation

- (a) “benefit” means an immediate benefit or deferred benefit accruing to owners or occupants of land and derived or derivable from the construction of sewage works, and
  - (i) “immediate benefit” means the benefit that accrues and is derived or derivable immediately upon completion of the sewage works, and
  - (ii) “deferred benefit” means the benefit that accrues upon completion of the sewage works but which is not derived or derivable therefrom until a sewer upon which the land will abut is constructed as part of the sewage works;
- (b) “capital cost” means the cost of constructing sewage works, inclusive of all items of cost usually and properly chargeable to capital account;
- (c) “capital improvement” means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (d) “sewage service rate” means a charge for the operation, repair and maintenance of sewage works and includes a charge for depreciation, deferred maintenance or a reserve fund for any such purpose;
- (e) “sewage works” means any public works for the collection, transmission, treatment or disposal of sewage, or any part of any such works;
- (f) “sewer rate” means a charge for the capital cost of sewage works. 1957, c. 76, s. 22, *part*; 1958, c. 64, s. 30; 1959, c. 62, s. 19.

(2) Subject to the approval of the Municipal Board first *Sewer rate* being obtained, the council of a local municipality, in authorizing the construction of sewage works, may by by-law provide

for imposing upon owners or occupants of land who derive or will or may derive a benefit from the sewage works a sewer rate sufficient to pay for the whole or such portion or percentage of the capital cost of the sewage works as the by-law may specify and, with the like approval, such by-law may from time to time be amended or repealed.

Special  
assessment  
under  
R.S.O. 1960,  
c. 223

(3) Where a sewer rate is imposed under subsection 2, no part of the capital cost of the sewage works shall be specially assessed under *The Local Improvement Act*.

Land in  
respect of  
which sewer  
rate  
imposed

(4) A by-law passed under subsection 2 shall designate the land for which the owners or occupants are made liable for the sewer rate imposed and, where the land designated does not comprise all land within the municipality, the area thereof shall be defined in the by-law.

Idem

(5) The land designated under subsection 4 may include not only land for which an immediate benefit accrues but also land for which a deferred benefit accrues.

Sewer rate  
for  
deferred  
benefit

(6) Where a sewer rate is imposed for a deferred benefit, it shall be changed to a sewer rate imposed for immediate benefit as soon as the immediate benefit is derived or derivable.

Computation  
of rate

(7) A sewer rate shall be computed by any or all or any combination of the following methods:

- (a) A foot frontage rate on the lands that receive an immediate benefit from the work.
- (b) A foot frontage rate on the lands that receive a deferred benefit from the work.
- (c) An acreage rate or rates on any or all of the lands designated under subsection 4, which rates may differ as between lands that will receive an immediate benefit and lands that receive a deferred benefit.
- (d) A rate on that portion of the lands designated under subsection 4 that are connected to the sewage works based on the water rates or charges charged or chargeable in respect of such lands.
- (e) A mill rate on the assessed value of the lands designated under subsection 4.

Revenue  
from sewer  
rates

(8) The revenue derived in any year from a sewer rate imposed under subsection 2 shall be applied and used towards payment of principal and interest due in that year upon debentures issued for the sewage works for the capital cost of which the sewer rate is imposed, and the council shall reduce the amount of the debenture rate to be levied for such de-

ventures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the sewer rate.

(9) Where in a local municipality there is land that has not or the owners or occupants of which have not been and are not assessable or taxed with respect to an existing sewer works except in the same manner and to the same extent as all other owners or occupants of land within the municipality have been or are assessable or taxed and a sewer forming part of such existing sewer works is to be constructed by means of which an immediate benefit from the existing sewer works accrues to the owners or occupants of such land, the council may, by by-law passed with the approval of the Municipal Board, provide for imposing upon the owners or occupants so benefited a sewer rate sufficient to pay for such portion or percentage of the capital cost of the existing sewer works as the by-law may specify.

(10) A sewer rate may be imposed under subsection 9 notwithstanding that the capital cost of the existing sewer works has in whole or in part been paid.

(11) The revenue from the sewer rate imposed under subsection 9 if not required for payment of any part of the outstanding capital cost of the existing sewer works shall be applied and used only for future capital improvements of the existing sewer works.

(12) A sewer rate imposed under subsection 9 shall be separate from and in addition to the sewer rate, if any, imposed under subsection 2 upon the same owners or occupants with respect to the sewer to be constructed to form part of the existing sewer works.

(13) The council of a local municipality for the purposes of subsections 2 and 9 may, by by-law passed with the approval of the Municipal Board, establish a sewer rate structure upon which sewer rates imposed under subsection 2 or 9 shall be based and calculated and, in establishing the rate structure, the council shall have regard to differentiating between the several classes of works, the kinds of benefits accruing and all other relevant matters to ensure that sewer rates are imposed upon a basis that is equitable and just, and, with the like approval, a by-law establishing the rate structure may from time to time be amended or replaced.

(14) The council of a local municipality may by by-law provide for imposing upon owners or occupants of land who use sewer works a sewage service rate.



Idem

(15) A sewage service rate may be imposed under subsection 14 notwithstanding that,

(a) a sewer rate has also been imposed with respect to the capital cost of the same work; and

R.S.O. 1960,  
c. 223

(b) the work with respect to which it is imposed was constructed under *The Local Improvement Act* or any other general or special Act.

Sewage  
service rate  
structure

(16) The council of a local municipality for the purposes of subsection 14 may by by-law establish a sewage service rate structure upon which sewage service rates shall be based and calculated and, in establishing the rate structure, the council shall have regard to differentiating between classes of users, nature, volume and frequency of use and all other relevant matters to ensure that sewage service rates are imposed upon a basis that is equitable and just.

Collection of  
rates

(17) The council of a local municipality may by by-law establish systems for,

(a) fixing times, periods and frequencies at and for which sewer rates imposed under subsection 2 or 9 and sewage service rates imposed under subsection 14 shall be payable, and they may be yearly, half-yearly, quarterly or bi-monthly;

(b) allowing discounts for prompt payment of such rates or for adding penalties for nonpayment by due date;

(c) appointing persons, corporations or agencies to have charge of and the power and responsibility for billing and collecting such rates;

(d) billing and collecting such rates and for co-ordinating such billing and collecting with the billing and collecting of other kinds of rates or charges imposed by or for the corporation;

(e) any other relevant matter or thing.

Idem

(18) The council of a local municipality may by by-law require any public utilities commission or local board that supplies water to the inhabitants of the municipality to collect such portion of any sewer rate or sewage service rate as is computed by the method referred to in clause *d* of subsection 7.

Rates to  
be charge  
on land

(19) A sewer rate imposed under subsection 2 or 9 and a sewage service rate imposed under subsection 14 upon any owner or occupant of land is a lien and charge upon the land and, if the rate or any part thereof remains unpaid after due date, the amount unpaid may be collected by distress upon the goods and chattels of such owner or occupant, or the

clerk of the municipality, upon notice to him of the amount due, the person by whom it is due and the land upon which a lien is claimed, shall enter the same upon the collector's roll and the collector shall proceed to collect it in the same way, as nearly as may be, as municipal taxes are collectable. 1957, c. 76, s. 22, *part*.

**381. By-laws may be passed by the councils of urban municipalities:**

1. For inspecting public bathing houses and boat houses or premises wholly or partly used for boat-house purposes. Inspection of bathing and boat houses
2. For requiring the owner or occupant of any building to make such changes in its structure and to strengthen its walls, supports and floors as may be required by the architect or other officer named in the by-law when, in the opinion of the architect or such officer, the building is being used for any purpose for which it is structurally unsuited or which renders it dangerous, and requiring a permit from the architect or such other officer for such use after such changes have been made as he may direct, and prohibiting the use of any building that in the opinion of the architect or other officer is dangerous, without his sanction and approval. Requiring changes in structure of buildings
3. For authorizing and assigning stands on the highways and in public places for motor vehicles not kept for hire, and for motor vehicles and other vehicles kept for hire, and regulating the use of the stands, and for authorizing the erection and maintenance of covered stands or booths on the highways and in public places for the protection or shelter of the drivers of such motor vehicles and other vehicles kept for hire; but no such covered stand or booth shall be placed upon the sidewalk without the consent of the owner and occupant of the adjoining land. Stands for vehicles
4. For acquiring, with the consent of the council thereof, land in any other municipality required for preventing such urban municipality or any part of it from being flooded by surface or other water flowing from such other municipality, or for an outlet for such water; and for constructing, maintaining and improving drains, sewers and watercourses in the land so acquired. Acquiring land in another municipality for drainage purposes
5. For acquiring land in the municipality for a drill-shed or armoury for any militia or volunteer corps having its headquarters in the municipality. R.S.O. 1950, c. 243, s. 391, pars. 1-5. Site for drill-shed or armoury
6. Subject to *The Elevators and Lifts Act* and any other Act relating to cranes, elevators and hoists, for regulating the construction of and for inspecting cranes, hoists and elevators, Erection of elevators R.S.O. 1960, o. 119

and for regulating the manner in which elevators and hoists, that are to be operated automatically or otherwise in buildings, shall be constructed and operated, and for licensing elevators and hoists used by the public or by employees. R.S.O. 1950, c. 243, s. 391, par. 6; 1955, c. 48, s. 41.

Rewards to  
fire fighters  
and persons  
disting-  
uishing  
themselves  
at fires

7. For providing medals or rewards for persons who distinguish themselves at fires, and for granting gratuities to the members of the fire brigade who have become incapacitated for service on account of injuries or ill-health caused by accident or exposure at fires, or from old age or inability to perform their duties, and for granting pecuniary aid or other assistance to the widows and children of persons killed by accident while in the discharge of their duties at fires, or who die from injuries received or from illness contracted while in the service of the corporation as fire fighters.

Milk and  
bread  
tickets

8. For regulating the use of tickets, checks or coupons by vendors of or dealers in milk, bread or other articles of food. R.S.O. 1950, c. 243, s. 391, pars. 7, 8.

Unlocked  
motor  
vehicles

9. For prohibiting any person driving or in charge of a motor vehicle, other than a commercial motor vehicle, from allowing such motor vehicle to stand unattended unless it is locked in such a manner as to prevent its operation by any person not authorized by the owner, driver or person in charge.

R.S.O. 1960,  
c. 172

(a) In this paragraph, "motor vehicle" and "commercial motor vehicle" mean "motor vehicle" and "commercial motor vehicle" as defined in *The Highway Traffic Act*.

(b) Any person who contravenes the provisions of such a by-law is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$10. R.S.O. 1950, c. 243, ss. 391, par. 9, 493.

Numbering  
houses, etc.

10. For numbering the buildings and lots along the highways and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building or lot, provided that such expense may be collected in the same manner as taxes, and if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

Record of  
streets,  
numbers,  
etc.

11. For keeping, and every such council shall keep, a record of the highways and of the numbers of the buildings and lots, and for entering therein, and every such council is hereby required to enter therein, a division of the streets with boundaries and distances for public inspection.



12. For empowering officers of the municipality, upon the complaint of the owner or occupant of any premises, to enter upon such premises and the land and buildings in the vicinity thereof for the purpose of trapping, removing or exterminating strayed pigeons that are causing annoyance to the owner or occupant or damages to such premises.

13. For requiring vacant lots to be properly enclosed.

14. For employing and paying one or more watchmen to patrol at night, or between certain hours of the night, any highway or part of a highway to be defined by the by-law and to guard and protect property, and for levying and collecting in the same manner and at the same time as taxes are levied and collected, by special rate, according to its assessed value, upon the land abutting on such highway or part of a highway within the limits defined by the by-law, except vacant lots, the expenses of or incidental to the employment of such night watchmen.

(a) The by-law shall not be passed except upon petition of two-thirds of the assessed owners and tenants of the land liable to be charged with the expenses, representing at least two-thirds of the assessed value of such land.

(b) A petition shall not be acted on unless the signatures to it, and that the contents of it were made known to each person before signature, are proved by affidavit.

(c) As between the landlord and tenant, in the absence of any express agreement to the contrary, the tenant is liable for the expenses for the period of his occupation.

(d) When land is occupied by a tenant, the owner is not entitled to petition.

15. For regulating the construction, erection, alteration or repairing of water tanks and water towers whether on buildings or elsewhere, and for prohibiting the construction, erection, altering or repairing of them contrary to such regulations.

16. For requiring the installation and maintenance of safety devices for window cleaners, for inspecting such devices and for prohibiting any person from cleaning the outside of windows of buildings on which such devices are installed unless such devices are used. R.S.O. 1950, c. 243, s. 391, pars. 10-16.

Market  
by-laws

**382.** Subject to section 383, by-laws may be passed by the councils of urban municipalities and of townships having a population of not less than 10,000 and of townships bordering on a city having a population of not less than 100,000:

R.S.O. 1950, c. 243, s. 392, *part*; 1954, c. 56, s. 22.

Establishing  
markets

1. For establishing, maintaining and regulating markets.

Regulating  
vending in  
streets, etc.

2. For prohibiting or regulating the sale by retail in the highways or on vacant lots adjacent to them of any meat, fish, vegetables, grain, hay, fruit, flowers, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise.

Sale of  
grain, meat,  
farm pro-  
duce, small-  
wares, etc.

3. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw and other fodder, wood, lumber, shingles, farm produce, smallwares and all other articles exposed for sale, and prescribing the fees to be paid therefor.

Criers and  
vendors of  
smallwares

4. For prohibiting criers and vendors of smallwares from practising their calling in the market place, or on the highways, or on vacant lots adjacent to the market place or to a highway.

Prohibiting  
forestalling,  
etc.

5. For prohibiting the forestalling, regrating or monopoly, of grain, wood, meat, fish, fruit, roots, vegetables, poultry, dairy products, eggs and all articles for family use, that are usually sold in the market, and for prohibiting or regulating the purchase of such things by hucksters, grocers, butchers, runners or wholesalers, or by persons who directly or indirectly purchase or acquire them for resale, provided that farmers and other producers may nevertheless sell such things at stores and shops at any time. R.S.O. 1950, c. 243, s. 392, pars. 1-5.

Hucksters,  
etc.

Measuring,  
etc., certain  
articles

6. For regulating the measuring or weighing of lime, shingles, laths, cordwood, coal, coke, oil or other fuel.

Weighing of  
fuel for  
delivery  
beyond  
municipal  
limits

(a) A by-law passed by a municipality under this paragraph may be made applicable to the measuring or weighing of coal and other fuel to be delivered within the municipality or to a point not more than three miles beyond its limits.

Ticket  
showing  
weight  
required

(b) A by-law passed under this paragraph may require coal and other fuel dealers to make out a ticket showing the weight or quantity of the coal or other fuel purchased after it is weighed or measured in accordance with the by-law, and the by-law may require that the amount so specified and the ticket shall be delivered to the purchaser. R.S.O. 1950, c. 243, s. 392, par. 6; 1951, c. 53, s. 18.

Regulating  
vehicles used  
in market  
vending

7. For regulating vehicles, vessels and other things in which anything is exposed for sale or marketed and for imposing a

reasonable duty thereon, and establishing the mode in which it shall be paid.

8. For selling, after six hours notice, butchers' meat dis- Sale of meat  
distrained trained for rent of a market stall.

9. For purchasing, leasing, erecting, maintaining and oper- Purchasing  
weighing  
machines,  
etc. ating weighing machines and weigh-houses, for appointing weigh-masters and for prescribing their duties.

10. For imposing, levying and collecting fees for the use of Fees such weighing machines. R.S.O. 1950, c. 243, s. 392, pars. 7-10.

11. With the approval of the Municipal Board and within Weighing  
of coal  
and coke the limitations and restrictions and under the conditions pre- scribed by order of the Board, for requiring all persons who, after a sale thereof, deliver coal or coke within the municip- ality, by a vehicle, from any coal yard, store-house, coal- chute, gas house or other place, to have the weight of such vehicle and of such coal or coke ascertained prior to delivery, by a weighing machine established as provided by paragraph 9, to furnish the weigh-master in charge of such weighing ma- chine with, and to surrender to each purchaser, at the time of delivery, a weigh-ticket upon which has been printed or written a description and grade of the coal or coke, the name and address of the vendor, and the name of the purchaser, and to have such weigh-ticket dated and signed by such weigh-master and to have him enter thereon the weight of such coal or coke.

(a) Every vendor of coal or coke with respect to which a Vendor  
bound weigh-ticket has been issued is bound thereby and is not entitled to demand, collect or recover from the purchaser the price of any greater quantity of coal or coke than that shown on such weigh-ticket.

(b) Every such vendor who demands, collects or receives Offence from a purchaser the price of any greater quantity of coal or coke than that shown on such weigh-ticket is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 243, ss. 392, par. 11, 493.

(c) Nothing in this paragraph authorizes a municipality Car lots to require the weighing of coal or coke sold in car lots at shippers' weights.

12. For requiring all persons offering or exposing cordwood Measure-  
ment of  
wood sold  
on market or firewood for sale upon the market, loaded in or upon any vehicle,

- i. to have such wood measured by a market inspector or by some other official of the municipality appointed for that purpose, who shall mark the measurement in a conspicuous place upon the load or vehicle, be- fore the wood is offered for sale;



- ii. to procure from such inspector or official a measurement ticket signed and dated by him, upon which he has entered the quantity of cordwood or firewood loaded in or upon the vehicle, and the name and address of the vendor;
- iii. to surrender the measurement ticket to the purchaser at or before the time of delivery;
- iv. to pay such fee for measuring as may be imposed.

Measure-  
ment of  
wood sold  
off market

13. For requiring all persons who, after a sale thereof except upon the market, deliver cordwood or firewood within the municipality by a vehicle to surrender to the purchaser thereof when making delivery a ticket signed by or on behalf of such person, upon which shall be legibly written or printed his name and address, the quantity of wood delivered from such vehicle, expressed in terms of a cord of 128 cubic feet, and the price at which the same has been sold.

Kindling,  
etc.

- (a) No by-law shall require kindling wood, mill waste or mill-cuttings to be measured.

Storage of  
coke

14. For requiring retail vendors of coke selling by weight to store their stock of coke so that it will not be exposed to rain, snow or water, and for prohibiting the sale of coke that is not so stored. R.S.O. 1950, c. 243, s. 392, pars. 12-14.

No market  
fees to be  
imposed  
on certain  
products

**383.**—(1) No market fee shall be imposed, levied or collected in respect of wheat, barley, rye, corn, oats, or any other grain, hay or other seed, wool, lumber, lath, shingles, cordwood or other firewood, dressed hogs, cheese, hay, straw, or other fodder, brought to market, or upon the market place, for sale or other disposal.

When fees  
may be  
charged on  
butter, etc.,  
brought to  
market

(2) No market fee shall be imposed, levied or collected in respect of butter, eggs, poultry, honey, celery, small fruits or other articles in hand baskets, brought to market, or upon the market place, for sale or other disposal, unless a convenient and fit place affording shelter in summer and shelter and reasonable protection from the cold in winter, in which to expose them for sale, is provided by the corporation.

Fees not to  
be charged  
on articles  
delivered in  
pursuance  
of prior  
contract

(3) Where the vendor of an article brought within the municipality in pursuance of a prior contract for the sale of it proceeds directly to the place of delivery, without hawking it upon the highways or elsewhere in the municipality, no market fee shall be imposed, levied or collected in respect of it.

Articles  
brought into  
municipality  
after 10 a.m.

(4) No market fee shall be imposed, levied or collected in respect of any article brought into the municipality after 10 o'clock in the forenoon, unless it is offered or exposed for sale upon the market place.

(5) No by-law shall require hay, straw or other fodder to be weighed, where neither the vendor nor the purchaser desires to have it weighed or measured.

When articles need not be weighed or measured

(6) A person who has exposed or offered for sale an article in the market place and has paid the prescribed fee, if any, in respect of it may, after 9 o'clock in the forenoon between the 1st day of April and the 1st day of November, and after 10 o'clock in the forenoon between the 1st day of November and the 1st day of April, sell such article elsewhere than in the market place.

Time after which attendance on market not required

(7) Subsection 1 does not apply to a municipality in which there is in force a by-law providing that vendors of articles, in respect of which under the provisions of paragraph 3 of section 382 a market fee may be imposed, may, without paying market fees, offer for sale and sell or otherwise dispose of such articles at any place within the municipality, excepting only at the market place.

Subs. 1 not to apply where by-law in force allowing sale without fee except at the market

(8) Subject to subsection 2, the council of a municipality to which subsection 7 applies may by by-law provide for imposing, levying and collecting market fees from such vendors who voluntarily use the market place for selling such articles or from any person who or whose vehicle remains upon that part of a highway that is within 100 yards of the market place, for the purpose of selling any of such articles other than grain, seeds, dressed hogs or wool upon such highway, but driving through or across such part of a highway does not authorize the imposition of any market fee, nor shall any market fees be imposed in respect of an article sold to a person carrying on business and having a *bona fide* store, shop or other similar place of business on such part of a highway.

but such by-law may impose fees on persons voluntarily using market; and on others selling within 100 yards of market

Exception as to sales to persons carrying on business near market

(9) Where a highway is used as a market place or market, or part of a market place or market, no market fees shall be imposed, levied or collected upon articles brought to that part of the highway that is so used, but this subsection does not apply to so much of a highway as adjoins or abuts upon a market square established as a market place.

Fees not to be charged where highway used as market

(10) Subsections 7 to 9 do not apply to any municipality where no market fees were charged or imposed on the 10th day of March, 1882, but subsections 1 to 6 and 11 and 12 apply to such municipality in the event of market fees being there-after charged or imposed therein.

Case of municipality again imposing market fees

(11) Nothing in subsections 1 to 10 prevents any municipality wherein no market fees are imposed or charged from regulating the sale and the place of sale of any articles within

Power to regulate sales when no fees are charged

the municipality to the same extent as it might have done before the 10th day of March, 1882.

- (a) In this subsection, "market fees" does not include fees for weighing or measuring.
- (b) After 9 o'clock in the forenoon between the 1st day of April and the 1st day of November, and after 10 o'clock in the forenoon between the 1st day of November and the 1st day of April, no person shall be compelled to remain on or resort to any market place with any articles that he may have for sale, but may, after the expiration of such hour, sell or dispose of such articles elsewhere than in or on such market place.

Inconsistent  
enactments  
not to apply

(12) When subsections 1 to 6 or subsections 7 to 9 are in force in any municipality, so much of any Act or law as may be contrary to, and as conflicts with such subsections, is not in force in and does not apply to such municipality.

Right to  
sell or lease  
market fees

(13) A corporation may sell or lease its market fees with the right to collect them. R.S.O. 1950, c. 243, s. 393.

**384. By-laws may be passed by the councils of counties, cities and towns:**

Grants to  
universities,  
colleges,  
historical  
societies, etc.

1. For making grants in aid of the University of Toronto or of Upper Canada College, or of any other university or college in Ontario, or of any historical, literary or scientific society.

- (a) Such grants may be made from time to time, and may be either by one payment, or by an annual payment for a limited number of years, and upon such terms and conditions as may be agreed upon and may include supplying Upper Canada College with water from the waterworks of the City of Toronto without charge.

Endowing  
fellowships,  
etc., in  
universities  
and colleges

2. For endowing fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, or in Upper Canada College, or in any other university or college in Ontario, for competition among the pupils of the collegiate institutes, high schools and continuation schools in the municipality.

Aid to art  
schools

3. For granting aid to art schools approved by the Department of Education.

Aid to  
private  
training  
schools  
R.S.O. 1960,  
o. 404

4. For granting aid to a society as defined in *The Training Schools Act* for the erection, establishment or equipment of a private training school, where the council is represented on the board of the society.



5. For making permanent provision for defraying the expenses of the attendance at the University of Toronto or at Upper Canada College, or at any other university or college in Ontario, of such of the pupils of any collegiate institute, high school or continuation school of the municipality as are unable to incur the expense, but are desirous of and in the opinion of the head master thereof possess competent attainments for competing for any scholarship, exhibition or other similar prize offered by such university or college.

Supporting certain pupils at universities, colleges, etc.

6. For making similar provision for the attendance at any collegiate institute, high school or continuation school, for the like purpose, of pupils of public schools of the municipality. R.S.O. 1950, c. 243, s. 394.

Similar provision for attendance at high schools

**385. By-laws may be passed by the councils of towns, villages and townships:**

1. For making grants in aid of, or to build, preserve, enlarge or improve, any collegiate institute or high school in another municipality. R.S.O. 1950, c. 243, s. 395.

Grants to high schools

**386. By-laws may be passed by the councils of cities and towns:**

1. For licensing, regulating and governing laundrymen and laundry companies and for inspecting and regulating laundries.

Licensing, etc., of laundries

(a) The by-law shall not apply to or include women carrying on a laundry business in private dwelling houses, and employing female labour only, or to such dwelling houses.

(b) The by-law may provide that a licence shall not be granted if it is deemed that the location of the laundry is an undesirable one.

2. For granting aid to any organization owning, manning and working lifeboats or other apparatus for life-saving purposes.

Aid to lifeboat associations

3. For licensing, regulating and governing massagists and for inspecting and regulating massage parlours, and such by-laws may provide for the enforcement thereof through the medical health department or police department of the city or town.

Licensing and regulating massagists, etc.

4. For purchasing and installing apparatus, appliances and equipment for a police signal system at a cost not exceeding \$20,000 in the case of a city and \$10,000 in the case of a town, and for the issue of debentures therefor, payable in equal

Police signal system

annual instalments of principal and interest during a period not exceeding ten years.

- (a) It is not necessary to obtain the assent of the electors to the by-law if it is passed by a vote of two-thirds of all the members of the council. R.S.O. 1950, c. 243, s. 396, pars. 1-4.

Commission  
may manage  
sewage  
works  
R.S.O. 1960,  
c. 335

5. For placing the management of sewage works under a commission established under *The Public Utilities Act*, provided the by-law shall not be passed without the assent of the municipal electors. 1957, c. 76, s. 24.

Super-  
annuation  
and benefit  
funds for  
fire and  
police force

6. For granting aid for the establishment and maintenance of superannuation and benefit funds for the members of the police force and of the fire brigade, and of other officers and employees of the corporation, and of their wives and families.

- (a) This paragraph does not apply to superannuation and benefit funds established after the 1st day of May, 1939. R.S.O. 1950, c. 243, s. 396, par. 6.

### **387. By-laws may be passed by the councils of cities:**

R.S.O. 1950, c. 243, s. 397, *part*.

Public bath  
premises

1. For licensing, regulating and governing owners or keepers of any class or classes of public bath premises operated for profit, and for revoking any such licence. R.S.O. 1950, c. 243, s. 397, par. 2.

### **388. By-laws may be passed by the councils of cities having a population of not less than 300,000:**

Power to  
make pay-  
ments on  
behalf of  
indigents for  
dwelling  
repairs

1. For providing and paying on behalf of any indigent inhabitant the cost, not exceeding \$200, of repairs necessary to make a dwelling habitable. R.S.O. 1950, c. 243, s. 398.

### **389. By-laws may be passed by the councils of cities having a population of not less than 50,000:**

R.S.O. 1950, c. 243, s. 400, *part*.

Membership  
in National  
Waterways  
Association

1. For the corporation becoming a member of the National Waterways Association of Canada and paying the fees for such membership and for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business.

Setting apart  
streets for  
fast driving

2. For setting apart one or more highways or parts of highways on which horses may be ridden or driven more rapidly than is permitted upon other highways, and for regulating the use for such purpose of any such highway.

- (a) If a majority of the property owners on any such street petition against such by-law, it shall be repealed.

3. For authorizing the seizing, in order to prevent their use as food, of unslaughtered cattle, sheep, calves and hogs that have died within the municipality, and for disposing of the carcasses so as not to endanger the public health, and so as to secure to the owner such value as remains over and above the expenses incurred in disposing of them. R.S.O. 1950, c. 243, s. 400, pars. 2-4. Seizure of cattle, etc., unfit for food

**390. By-laws may be passed by the councils of cities and of local municipalities, other than cities, situate within ten miles of a city having a population of not less than 100,000:**

1. For licensing, regulating and governing bailiffs and bailiffs' assistants and for providing that any applicant for a bailiff's licence shall deposit with the issuer of licences, with his application, such security or guarantee bond for such amount as may be required by the council of the municipality and for revoking the licence, provided each such revocation is authorized by a resolution or by-law passed specifically for the purpose. Licensing, etc., bailiffs and bailiffs' assistants

- (a) In this paragraph, "bailiff" includes any person acting, or holding himself out as being prepared to act, for or on behalf of any person in the seizure and sale or seizure only of chattels, or in any eviction or the collection of rent or taxes by distress or the repossession of goods or chattels under a conditional sale or lien contract, hire purchase agreement, chattel mortgage or other form of security, and "bailiff's assistant" includes any person acting for or on behalf of a bailiff in the course of any eviction, distress or repossession of goods or chattels as aforesaid, but neither "bailiff" nor "bailiff's assistant" includes a bailiff of any division court nor any sheriff or his agent, nor any officer of any court of record. Interpretation

- (b) The licence fee shall not exceed \$100 in the case of a city, and \$25 in the case of a local municipality other than a city. Licence fees

2. For licensing, regulating and governing the keepers of shops or places where animals or birds for use as pets are sold or kept for sale. R.S.O. 1950, c. 243, s. 401. Licensing, regulating and governing pet shops

**391. By-laws may be passed by the councils of counties:**

1. For granting aid to any society, organization or body in the county having for its objects the promotion or protection of agriculture, education or social welfare, where no specific Aid to agricultural and other bodies



authority for granting such aid is contained in any statute; provided the amount of aid that may be granted under the authority of this paragraph shall not exceed in the aggregate \$5,000 in any year. R.S.O. 1950, c. 243, s. 402, par. 1.

Aid for  
animal losses  
due to rabies

2. For granting aid to owners of cattle, horses, goats, sheep or swine for losses caused by rabies, not in excess of the following rates for each animal:

cattle.....	\$250
horses.....	100
goats.....	40
sheep.....	40
swine.....	40

1960, c. 69, s. 19

Protecting  
booms

3. For protecting and regulating booms on any stream or river for the safe keeping of timber, saw-logs and staves.

Establish-  
ment of  
county farms

4. For acquiring lands in the county and erecting thereon farm and other buildings and for establishing, developing, improving, equipping, operating and maintaining such lands and buildings as a county farm for educational, experimental and other purposes in the promotion and advancement of agriculture in all its branches, and for the issue of debentures therefor, other than for the expenses of operation and maintenance.

(a) It is not necessary to obtain the assent of the electors to any by-law passed under this paragraph if it is passed by a vote of two-thirds of all the members of the council.

(b) A county council that has established a county farm under this paragraph may enter into agreements with the Minister of Agriculture for its development, improvement and equipment and for its operation and maintenance by or in conjunction with the Department of Agriculture for such periods and upon such terms and conditions as from time to time may be agreed.

Fences

5. For the exercise in respect of fences along highways under the jurisdiction of the council of the powers conferred upon the councils of local municipalities by paragraph 19 of subsection 1 of section 379.

Regulating  
erection of  
poles, towers,  
wires, etc.,  
on county  
roads  
R.S.O. 1960,  
c. 255

6. Subject to *The Municipal Franchises Act*, for permitting and regulating the erection and maintenance of electric light, power, telegraph and telephone poles, towers and wires on, and the laying of pipes or conduits for the conveyance of water, gas or sewage under, the highways under the jurisdiction of the council.

7. For expending and for diffusing information respecting <sup>Annual expenditure</sup> the advantages of the county as an agricultural centre a sum for publicity not exceeding in any year \$3,000.

8. For providing that no sleigh or other vehicle upon runners <sup>Sleigh runners</sup> for the conveyance of articles of burden, goods, wares or merchandise shall be used by any person residing within the municipality on any of the highways within the municipality unless the runners thereof, measuring from centre to centre, are apart at the bottom at least four feet.

(a) The by-law may exempt from its operation all sleighs or vehicles on runners owned at the time of its passing by persons resident within the municipality, and shall not come into force until the expiration of one year from the date upon which it was passed.

9. For compelling the destruction or regulating the disposal <sup>Refuse from grass or clover seed</sup> of the refuse obtained in the process of cleaning grass or clover seed.

10. For purchasing supplies of any or all kinds of vegetables, seeds and seed roots and tubers and donating them to residents <sup>Purchase and donation of seeds</sup> of the county on such terms and conditions as may be fixed by the by-law for the purpose of promoting and aiding the production of crops.

11. If there are gravel or macadamized highways under the jurisdiction of the council and under its immediate control, <sup>Regulation of traffic on certain county roads</sup> that are being kept up and repaired by municipal taxation, and upon which no toll is collected,

(a) for licensing, regulating and governing the keepers of <sup>Licensing livery stables</sup> livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;

(b) for regulating the fares to be charged for the conveyance of goods or passengers; <sup>Rates of fare</sup>

(c) subject to *The Highway Traffic Act*, for regulating the traffic on such highways. R.S.O. 1950, c. 243, s. 402, <sup>Regulating traffic</sup> <sub>R.S.O. 1960, c. 172</sub> pars. 2-10.

12. For installing services in land owned by the county in <sup>Installation of services on county land</sup> any municipality situated in the county, subject to the approval of the local municipality in which the land is situated, to assist in the disposal of the land for building purposes. 1952, c. 63, s. 18.

**392.** By-laws may be passed by the councils of townships in unorganized territory:

1. For providing that no sleigh or other vehicle upon runners <sup>Sleigh runners</sup> for the conveyance of articles of burden, goods, wares or

merchandise shall be used by any person on any of the highways within the municipality unless the runners thereof, measuring from centre to centre, are apart at the bottom at least four feet. R.S.O. 1950, c. 243, s. 403.

Power of certain townships in unorganized territory to pass by-laws for certain purposes

**393.** The council of a township in unorganized territory having a population of not less than 5,000 and which has been declared by order of the Municipal Board to be a township part of which is so built up and populated as to entitle it to be incorporated as a town under this Act may pass by-laws for the purposes mentioned in,

- (a) paragraph 3 of section 381;
- (b) sections 382 and 383;
- (c) paragraph 1 of section 396;
- (d) paragraph 24 of section 377;
- (e) paragraphs 1 and 2 of section 400. R.S.O. 1950, c. 243, s. 404; 1955, c. 48, s. 42.

**394. By-laws may be passed by the councils of townships:**

R.S.O. 1950, c. 243, s. 405, *part.*

Fire areas in townships

1. For exercising the powers conferred by paragraph 24 of subsection 1 of section 379 in respect of any defined area in the township, and for levying a special rate on all the rateable property in the defined area according to the last revised assessment roll sufficient to pay the cost incurred or to meet the annual payments of principal and interest upon any debentures issued in respect of such cost, provided that, where two-thirds of the owners of lands in the area, according to the last revised assessment roll, petition therefor, the council may by by-law levy the special annual rate for the purposes mentioned in this paragraph upon that part of the rateable property in the area that consists of the assessments for buildings only as shown on such assessment roll. R.S.O. 1950, c. 243, s. 405, par. 1; 1957, c. 76, s. 27 (1).

Appointing, insuring and paying of fire fighters

2. For appointing, insuring and paying fire fighters and others employed in connection with the fire hall and for levying a special annual rate on all the rateable property in such area according to the last revised assessment roll to meet the cost thereof and the cost of the maintenance and repair of the fire hall, fire engines, apparatus and appliances; provided that, where two-thirds of the owners of lands in the area, according to the last revised assessment roll, petition therefor, the council may by by-law levy the special annual rate for the purposes mentioned in this paragraph upon that part of the rateable property in the area that consists of the assessments for buildings only as shown on such assessment roll.



3. For entering into agreement with any other municipality or person upon such terms and conditions and for such consideration based on cost as may be agreed upon or, failing agreement, as may be determined by the Municipal Board for the use of the fire-fighting equipment of such municipality or person, or any of it, in the event of fire in any defined area of the township, and for levying a special annual rate on all the rateable property in such area to defray the expenses incurred under and incidental to the agreement, provided that, notwithstanding the provisions of any such agreement, no liability accrues to the municipality or person for failing to supply the use of the fire-fighting equipment, or any of it.

Area fire-protection agreements

4. For entering into agreement with any other municipality or municipalities for establishing, providing and maintaining, jointly, a fire brigade, fire halls, fire engines, apparatus and equipment and for the maintenance and use thereof upon such basis as to the distribution of cost as the agreement may stipulate.

Establishment of joint fire brigade by municipalities

- (a) Each municipality shall issue its own debentures for its share of the capital cost of providing such fire services, and the provisions of paragraphs 1 to 3 are applicable. R.S.O. 1950, c. 243, s. 405, pars. 2-4.

5. For making grants,

- (a) to the Ontario Federation of Agriculture if a by-law under section 296 is not in force in the township; and
- (b) to farm organizations or agricultural commodity groups. 1957, c. 76, s. 27 (2).

Grants to Ontario Federation of Agriculture and farm organizations

6. For authorizing the annual dues of members of any farm organization approved by the Minister of Agriculture to be entered in the collector's roll and collected in the same manner as taxes.

Addition to collector's roll of dues of members of farm organizations

- (a) A by-law under this paragraph applies only where the annual dues for all members of the farm organization are uniform.
- (b) A by-law under this paragraph remains in force until amended or repealed and it is not necessary to pass such by-law annually.
- (c) Upon receipt by the clerk of the township, before the certification of the collector's roll, of written notice from a member of such a farm organization instructing that the annual dues of such member be collected in the same manner as taxes for which he is liable, the dues of such member shall be entered in the collector's roll in a special column designated by the name of the farm organization.

- (d) A member who has given a notice under clause c may by similar notice require the clerk of the township to discontinue the collection of dues.
- (e) Such dues do not form a charge upon land and are not subject to a penalty for non-payment.
- (f) The treasurer of the township shall deposit the dues collected in a special account or accounts and shall from time to time pay such dues to the treasurer of the proper farm organization. 1959, c. 62, s. 21.

Authority to  
call out help

7. For authorizing the reeve or deputy reeve or, in case of the absence of the reeve and deputy reeve, any member of the council, in the event of an emergency arising in the township by reason of timber or forest fires, to call out such number of resident male inhabitants of the township as may be necessary to fight and put out any such fires, and for fixing the amount of the remuneration to be paid to such residents for the services rendered by them.

Numbering  
buildings  
and lots in  
parts of  
township

8. For numbering the buildings and lots along any highway, street, beach, park, reserve or any other property in the township that it is considered necessary to number by the township council, and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building, lot or property.

- (a) Such expense may be collected in the same manner as taxes, and, if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

Records of  
streets and  
numbers, etc.

9. For keeping, and every such council shall keep, a record of the highways, streets, beaches, parks, reserves and of the numbers of the buildings and lots, and for entering therein, and every such council is hereby required to enter therein, a division of the streets with boundaries and distances for public inspection.

Restrictions  
on operation  
of portable  
steam  
engines

10. For prescribing the distance from a highway within which unenclosed portable steam engines may not be used for running a sawmill or a shingle mill.

Keeping  
highways  
open in  
winter

11. For providing for keeping open the highways during the season of sleighing in each year, and for the application of so much of the commutation of the statute labour fund as may be necessary for that purpose.

Requiring  
overseers of  
highways to  
keep open  
highways

12. For requiring the overseers of highways or the pathmasters to make and keep open the highways during the season of sleighing.

Powers of  
overseers

- (a) Such overseers and pathmasters may require the persons liable to perform statute labour to assist in

keeping open such highways, and shall give to any person so employed a certificate of his having performed statute labour and of the number of days work done, for which he shall be allowed on his next season's statute labour.

13. For prohibiting the obstruction of streams, creeks and watercourses by trees, brushwood, timber or other materials, and for requiring the clearing away and removing of the obstructions by the person causing the same. Prohibiting obstruction of streams, etc.

14. For prohibiting or regulating the sale by retail in the highways or on vacant lots adjacent to them of any meat, vegetables, grain, hay, fruit, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise. Regulating vending in streets

15. For erecting and maintaining weighing machines within the municipality or within an adjacent village, and charging fees for the use thereof. Erecting and maintaining weighing machines

16. For purchasing any wet land in the township, the price of which, in case of Crown lands, shall be fixed by the Lieutenant Governor in Council, and for draining such land. Purchase of wet land from Government  
R.S.O. 1950, c. 243, s. 405, pars. 5-14.

**395. By-laws may be passed by the councils of towns, villages and townships and by boards of commissioners of police of cities:**

1. For licensing, regulating and governing teamsters, carters, draymen, owners and drivers of cabs, buses, motor or other vehicles used for hire or any class or classes thereof; for establishing the rates or fares to be charged by the owners or drivers of such vehicles for the conveyance of goods or passengers either wholly within the municipality or to any point not more than three miles beyond its limits, and for providing for the collection of such rates or fares; for limiting the number of cabs, buses, motor or other vehicles used for hire, or any class or classes thereof; and for revoking any such licence. Teamsters, cab owners, cab drivers, vehicles for hire, etc.  
R.S.O. 1950, c. 243, s. 406, par. 1; 1954, c. 56, s. 25 (1).

2. For licensing, regulating and governing keepers of livery stables and of horses used for hire. Livery stables

3. For licensing, regulating and governing persons keeping boats for hire, and for regulating and inspecting boats kept by such person, and for revoking any such licence. Boat livery keepers  
R.S.O. 1950, c. 243, s. 406, pars. 2, 3.

4. For requiring any or all persons mentioned in paragraphs 1, 2 and 3 to provide public liability, property damage, cargo or other insurance in the form and to the amounts of coverage prescribed in the by-law and, where such insurance is not so Insurance for teamsters, cab owners, etc.



provided, the council or board may refuse, refuse to renew or revoke any licence issued under paragraph 1, 2 or 3. 1953, c. 70, s. 15, *part*.

Sale of  
newspapers  
and maga-  
zines on  
streets

5. For licensing, regulating and governing persons selling newspapers and magazines upon any highway and for restricting the operations of such persons to a particular location upon a highway, and for restricting the operations of such persons to the sale of newspapers and magazines only, and for prohibiting the selling or offering for sale upon any highway of books, periodicals, pamphlets or other printed matter, except newspapers and magazines, and for prohibiting the taking or soliciting of subscriptions to magazines upon any highway or in any public place, and for revoking any such licence. 1952, c. 63, s. 19.

Taxi-cab  
brokers

6. For licensing, regulating and governing taxi-cab brokers and for revoking any such licence and for requiring taxi-cab brokers to provide public liability, property damage, cargo or other insurance in the form and to the amounts of coverage prescribed in the by-law in respect of each taxi-cab operated in association with such broker and, where such insurance is not so provided, the council or board may refuse, refuse to renew or revoke any such licence.

(a) In this paragraph, "taxi-cab broker" means any person who accepts calls in any manner for taxi-cabs that are used for hire and that are owned by persons other than himself, his immediate family or his employer. 1953, c. 70, s. 15, *part*; 1954, c. 56, s. 25 (2).

**396.** By-laws may be passed by the councils of counties, towns, villages and townships and by boards of commissioners of police of cities:

R.S.O. 1950, c. 243, s. 407, *part*; 1954, c. 56, s. 26.

Licensing  
and regula-  
ting salvage  
shops, etc.

1. For licensing, regulating and governing salvage shops, salvage yards, second-hand goods shops and dealers in second-hand goods, and for revoking any such licence.

(a) In this paragraph,

- (i) "dealers in second-hand goods" includes persons who go from house to house or along highways for the purpose of collecting, purchasing or obtaining second-hand goods,
- (ii) "salvage yard" includes an automobile wrecking yard or premises,
- (iii) "second-hand goods" includes waste paper, rags, bones, bottles, bicycles, automobile tires, old metal and other scrap material and salvage.

- (b) The by-law may apply to and require every person using a vehicle for any of the purposes mentioned in this paragraph, either on his account or as the agent or servant of another person, to take out a licence.
- (c) The power of licensing does not apply to persons engaged in any of the objects mentioned in this paragraph for patriotic or charitable purposes.
- (d) The fee to be paid for the licence shall not exceed \$20 for one year.
- (e) A by-law of a county passed under this paragraph shall not have force in any municipality in the county after such municipality hereby authorized so to do has passed a by-law for a similar purpose.
- (f) Any licence issued under this paragraph may be issued to authorize the licensee to deal in one class only of second-hand goods or in more than one class as may be specified in the licence, and such licensee is not entitled to deal in any class of second-hand goods not covered by his licence. R.S.O. 1950; c. 243, s. 407, par. 1.

**397. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory:**

1. For authorizing, on petition of at least fifty electors, the holding, at one or more of the most public and convenient places in the municipality, of public fairs restricted to the sale, barter and exchange of cattle, horses, sheep, pigs and articles of agricultural production or requirement.

Public fairs  
for sale of  
cattle, etc.

- (a) The by-law shall prescribe rules and regulations for the government of the fairs, and appoint a person to see that they are carried out, and shall also fix the fees to be paid to him by persons attending the fair, and public notice of the passing of the by-law shall be forthwith given by the council.

2. For appointing one or more surgeons for the institutions, other than the jail, under the control of the corporation.

Appointment  
of  
surgeons

**398. By-laws may be passed by the councils of counties, cities, separated towns and towns in unorganized territory:**

1. For defining areas within which tanneries, salvage shops, salvage yards or second-hand goods shops, or industries of a noxious or unhealthy character, may not be carried on.

Defining  
areas in  
which certain  
trades may  
not be  
carried on

- (a) This paragraph does not apply to a tannery erected before the 7th day of April, 1890. R.S.O. 1950, c. 243, s. 409.

**399.**—(1) By-laws may be passed by the councils of counties, townships, towns and villages and of cities having a population of less than 100,000, and by boards of commissioners of police of cities having a population of not less than 100,000:

Licensing,  
etc.,  
salesmen

1. For licensing, regulating and governing persons who go from place to place or to a particular place with goods, wares or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards.

When  
licence not  
required

- (a) No such licence is required for hawking, peddling or selling goods, wares or merchandise,

- (i) to wholesale or retail dealers in similar goods, wares or merchandise, or
- (ii) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or his agent or employee having written authority so to do, in the municipality in which the grower, producer or manufacturer resides, or
- (iii) if the goods, wares or merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells only the produce of his own farm, or
- (iv) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays business tax in the municipality, or by his employee, or by his agent, or
- (v) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise, or
- (vi) by persons who sell milk or cream or fluid milk products to the consumer or to any person for resale.

Production  
of authority  
of servant

- (b) Such servant or employee shall exhibit his authority when required so to do by any municipal or peace officer.



- (c) In a prosecution for a breach of the by-law, the onus of proving that he does not for any of the reasons mentioned in clause *a* require to be licensed is upon the person charged. Onus of proof that no licence required
- (d) Nothing in this paragraph affects the powers to pass by-laws under sections 382 and 383, paragraph 1 of section 400, and paragraphs 16, 17 and 18 of section 401. Certain powers not affected
- (e) Where the council of a town, village or township not separated from a county has passed a by-law under this paragraph, the by-law of the county is not in force in the town, village or township while the by-law of such town, village or township remains in force. Force of by-law of town, etc., not separated
- (f) The fee to be paid for the licence under by-laws passed under this paragraph may be lower in the case of persons who have resided continuously within the municipality for which the licence is sought for at least one year prior to the application therefor than in the case of persons who have not so continuously resided, but no licence fee in excess of \$2 shall be prescribed in the by-law without the approval of the Department. Fees
- (g) The licensee shall at all times while carrying on his business have his licence with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so is guilty of an offence, unless the same is accounted for satisfactorily, and on summary conviction is liable to a fine of not less than \$1 and not more than \$5. Licence to be produced on demand
- (h) If a peace officer demands the production of a licence by any persons to whom the by-law applies and the demand is not complied with, it is the duty of the peace officer and he has power to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to law. R.S.O. 1950, c. 243, ss. 410 (1), par. 1, 493; 1960, c. 69, s. 20 (1). Penalty

2. For providing the treasurer or clerk of the county, or the clerk of any municipality within the county, with licences under by-laws passed under paragraphs 1 and 7 to be issued under such regulations as may be prescribed to persons applying for them. Supplying licences

3. For prohibiting the sale of fruit, candy, peanuts, ice cream or ice cream cones from a basket or wagon, cart or Prohibiting sale of fruit, etc., on public streets, etc.

other vehicle upon any highway or part of it, or in any public park or other public place.

- (a) The by-law does not apply to a farmer, market gardener or other person selling or delivering goods at any place of business or residence upon such highway or part thereof.

Licensing  
dealers in  
fruit

4. For licensing, regulating and governing persons not being wholesale dealers residing in Ontario who go from place to place or to a particular place to make sales or deliveries of fruits and garden produce to a retail dealer and for licensing, regulating and governing bakers, butchers and grocers whose place of business is out of Ontario but who go from place to place or to a particular place in Ontario to make sales or deliveries of bread, meat and groceries to any person other than to a retail dealer.

- (a) The fee to be paid for the licence shall not exceed \$250.

- (b) The provisions of clauses *e*, *g* and *h* of paragraph 1 apply to a by-law passed under this paragraph. R.S.O. 1950, c. 243, s. 410 (1), pars. 2-4.

Limiting  
number of  
and licensing  
victualling  
houses, etc.

5. For limiting the number of and licensing and regulating victualling houses, ordinaries, and houses where fruit, fish, oysters, clams or victuals are sold to be eaten therein, and places for the lodging, reception, refreshment or entertainment of the public, and for revoking the licence.

- (a) The sum to be paid for the licence shall not exceed \$20.

Licensing  
food shops

6. For licensing, regulating and controlling all places where food stuffs intended for human consumption are made for sale, offered for sale, stored or sold.

- (a) The licence fee shall not exceed the sum of \$1 for one year. R.S.O. 1950, c. 243, s. 410 (1), pars. 6, 7.

Auctioneers

7. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for prohibiting the granting of a licence to an applicant who is not of good character or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is deemed not desirable that the business should be carried on; for ascertaining by such means as the by-law may provide whether an applicant is not of good character or his premises are not suitable for the business and for determining the time the licence shall be in force; and for revoking any such licence.

- (a) No such by-law applies to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent. R.S.O. 1950, c. 243, s. 410 (1), par. 8; 1958, c. 64, s. 32.
- (b) A by-law of a county passed under this paragraph does not have force in a town, village or township that has passed a by-law for a similar purpose. 1951, c. 53, s. 21.

8. For licensing, regulating and governing bill posters, Bill posters advertising sign painters, bulletin board painters, sign posters and bill distributors, and for prohibiting the posting up or distributing of posters, pictures or hand bills that are indecent or tend to corrupt morals.

- (a) A by-law of a county passed under this paragraph does not have force in a town, village or township that has passed a by-law for a similar purpose.
- (b) A by-law passed under this paragraph may provide that no such licence shall be required by a person who works only as an employee of a person licensed. R.S.O. 1950, c. 243, s. 410 (1), par. 9.

(2) A by-law passed by a council of a county under paragraphs 1 to 4 of subsection 1, whether the same is mentioned or not, covers and includes the boundary line or highway By-law to cover sales on county boundary lines between such county and an adjoining county, and a sale made on such boundary line or highway to a resident of a county in which such by-law is in force is a breach of such by-law in the same manner and with like consequence and effect as if made wholly within the county. R.S.O. 1950, c. 243, s. 410 (2).

**400. By-laws may be passed by the councils of towns, villages and townships and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:**

R.S.O. 1950, c. 243, s. 412, *part*; 1954, c. 56, s. 28.

1. For regulating the storage, handling and sale of fresh Regulating sale of meat meats and of fresh fish and prescribing the equipment and appliances necessary to conduct such business under sanitary conditions, and for granting annually or oftener licences for the sale of fresh meat in quantities less than by the quarter carcass and of fresh fish and fixing and regulating the places where such sale shall be allowed, and for prohibiting the sale of fresh meat in less quantities than the quarter carcass and of fresh fish, unless by a licensed person and in a place authorized by the council.

- (a) The power conferred by this paragraph is not affected or restricted by anything in section 383.



(b) Nothing in this paragraph affects the powers conferred by paragraphs 3 and 4 of section 382.

(c) The fee to be paid for the licence shall not exceed \$50 in a city and \$25 in a town, township or village.

Licensing  
and regulat-  
ing keepers  
of tobacco  
stores

2. For licensing, regulating and governing keepers of stores and shops where tobacco, cigars or cigarettes are sold by retail, and for revoking any such licence.

Licensing,  
etc., street  
photog-  
raphers

3. For licensing, regulating and governing photographers and other persons who for gain use photographic cameras or other similar devices in or upon any highway or public place, and for revoking any such licence. R.S.O. 1950, c. 243, s. 412, pars. 1-3.

Licensing  
non-resident  
transient  
photog-  
raphers

4. For licensing, regulating and governing photographers and other persons who for gain use photographic cameras or other similar devices and who, not being residents of the municipality, go from place to place or to a particular place, notwithstanding that any product is to be delivered in the municipality afterwards. 1960, c. 69, s. 21.

**401.** By-laws may be passed by the councils of towns, townships and villages and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:

R.S.O. 1950, c. 243, s. 413, *part*; 1956, c. 50, s. 17 (1).

Billiard,  
pool and  
bagatelle  
tables

1. For licensing, regulating and governing persons who for hire or gain, and proprietary clubs, that directly or indirectly keep, or have in their possession, or on their premises, any billiard, pool or bagatelle table, or keep or have any such table, whether used or not, in a house or place of public entertainment or resort; for limiting the number of licences to be granted and the number of such tables that shall be licensed, and for revoking any such licence.

(a) "Proprietary club" means all clubs other than those in which the use of any such table is only incidental to the main objects of the club. R.S.O. 1950, c. 243, s. 413, par. 1.

Barber  
shops, etc.

2. For licensing, regulating and governing the owners of barber shops and hairdressing establishments, and for revoking any such licence. 1951, c. 53, s. 22 (2), *part*.

Drain con-  
tractors, etc.

3. For licensing, regulating and governing drain contractors, drain layers and persons who install septic tanks or repair or reconstruct drains, remove tree roots or other obstructions from drains and private drain connections by mechanical or other means, and for revoking any such licence. 1957, c. 76, s. 28.

4. For licensing, regulating and governing persons who carry on the business of teaching persons to operate motor vehicles and driving instructors employed in such business, and for regulating and governing the equipment used in such business, and for revoking any such licence.

Driving  
schools and  
instructors

- (a) The licence fee shall not exceed \$50. 1951, c. 53, s. 22 (2), *part*; 1952, c. 63, s. 20 (1).

5. For examining, licensing, regulating and governing electrical contractors, electricians, master electricians and journeyman electricians or for permitting them by reason of registration with the Electrical Contractors Association of Ontario or other qualification to carry on their trade without examination or licence, or both.

Electrical  
workers

- (a) In this paragraph, "master electrician" means a person who is skilled in the planning, superintending and installing of wires, conduits, apparatus, fixtures or other appliances for the carrying or using of electricity for light, heat or power purposes, who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in the municipality and who, himself, or by journeyman electricians in his employ, performs electrical work; and "journeyman electrician" means a person, other than a master electrician, who has been employed in electrical installation and has acquired sufficient skill and knowledge of the trade to be considered a safe and responsible mechanic.

- (b) The by-law does not apply to the employees of a public service commission or corporation. R.S.O. 1950, c. 243, s. 413, par. 3; 1955, c. 48, s. 43 (1).

6. For regulating and licensing, subject to the provisions of *The Theatres Act*, exhibitions held for hire or gain, theatres, music halls, bowling alleys, moving picture shows, public halls and all places of amusement, and for prohibiting the location of them, or a particular class of them, on land abutting on any highway or part of a highway to be named in the by-law, and for revoking any such licence. R.S.O. 1950, c. 243, s. 413, par. 4; 1954, c. 56, s. 29.

Exhibitions,  
bowling  
alleys, etc.  
R.S.O. 1960,  
o. 396

7. For prohibiting or regulating and licensing exhibitions of wax works, menageries, circus-riding, and other like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement, and merry-go-rounds, switchback railways, carousels and other like contrivances, and for imposing penalties not exceeding the amount of the licence fee on offenders against the by-law, and for levying the same by distress and sale of the goods and

Exhibitions  
of wax  
works,  
shows, etc.

chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

(a) A licence shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 300 yards from the grounds of the society, or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.

(b) The fee to be paid for the licence shall not exceed \$500.

Licensing,  
etc., fuel  
dealers

8. For licensing, regulating and governing dealers in coal, coke, oil or other fuel, and for revoking or suspending the licence of any such dealer.

(a) The fee for such licence shall not exceed \$5 per year.

(b) A by-law passed under this paragraph shall include dealers in coal, coke, oil or other fuel who by themselves or their employees, agents, canvassers or solicitors take orders for or deliver fuel within the municipality.

Fuel  
delivery  
men

9. For licensing, regulating and governing persons who deliver coal or other fuel, and for revoking any such licence.

Installers of  
insulation

10. For licensing, regulating and governing persons who carry on the business of installing insulation in buildings, and for revoking any such licence. R.S.O. 1950, c. 243, s. 413, pars. 5-8.

Refreshment  
vehicles

11. For licensing, regulating and governing vehicles from which refreshments are sold for consumption by the public, and for revoking any such licence. 1951, c. 53, s. 22 (2), *part*.

Plumbers

12. For licensing, regulating and governing plumbing contractors, plumbers, master plumbers and journeyman plumbers.

(a) In this paragraph, "master plumber" means a person who is skilled in the planning, superintending and installation of plumbing, is familiar with the laws, rules and regulations governing the same, has a regular place of business in the municipality and who himself or by journeyman plumbers in his employ performs plumbing work; and "journeyman plumber" means a person, other than a master plumber, who has been employed in plumbing installation and has acquired sufficient skill and knowledge of the trade to be considered a safe and responsible mechanic.



13. For licensing, regulating and governing keepers of shoe repair or shoe shine shops, and for revoking any such licence. Shoe repair shops, etc.

14. For fixing days when persons and organizations in Tag days charitable or patriotic work may solicit contributions of money from persons on the highways of the municipality. R.S.O. 1950, c. 243, s. 413, pars. 9-11.

15. For licensing, regulating and governing tourist camps, trailer camps and motels and for designating areas of land to be used as tourist camps, trailer camps or motels, and for prohibiting the use of other land for such purposes. Tourist and trailer camps R.S.O. 1950, c. 243, s. 413, par. 12, *part*; 1958, c. 64, s. 33.

(a) In this paragraph,

Interpre-  
tation

- (i) "tourist camp" includes auto camp and any parcel of land or premises equipped with cabins used or maintained for the accommodation of the public, and any parcel of land or premises used or maintained as a camping or parking ground for the public whether or not a fee or charge is paid or made for the rental or use thereof; and
- (ii) "trailer camp" means land in or upon which any vehicle, so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, is placed, located, kept or maintained, notwithstanding that such vehicle is jacked-up or that its running gear is removed, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein. R.S.O. 1950, c. 243, s. 413, par. 12, cl. (a).

(b) Any by-law passed under this paragraph may, among other things,

Licensing  
and regu-  
lating

- (i) require trailer camps to be divided into lots having such minimum area as the by-law may prescribe,
- (ii) provide for the issue of licences for a period of one month or longer to the owner of a trailer camp for each lot to be made available by such owner for the occupancy of a trailer during the currency of a licence and prohibit the use of any lots for the occupancy of trailers without a licence therefor,
- (iii) require a licence fee of not more than \$10 per month payable by the owner of a trailer camp

for each such lot and require fees to be paid in advance. 1956, c. 50, s. 17 (2).

Licensing  
and regu-  
lating  
transient  
traders

16. For licensing, regulating and governing transient traders and other persons whose names have not been entered on the assessment roll in respect of business assessment for the then current year, and who offer goods, wares or merchandise for sale by auction, conducted by themselves or by a licensed auctioneer or otherwise, or who offer them for sale in any other manner. R.S.O. 1950, c. 243, s. 413, par. 13.

Requirement  
as to obtain-  
ing licence  
before doing  
business

17. For requiring transient traders and other persons whose names are not entered on the assessment roll or are entered on it for the first time, in respect of business assessment, and who so offer goods, wares or merchandise for sale, to pay a licence fee before commencing to trade.

For the purpose of paragraph 16 and this paragraph,

Interpre-  
tation

(a) "Transient trader" includes any person commencing business who has not resided continuously in the municipality for at least three months next preceding the time of his commencing such business there.

Stock of  
insolvent

(b) The by-law does not apply to the sale of the stock of a bankrupt or an insolvent, within the meaning of any bankruptcy or insolvency Act in force in Ontario, nor to the sale of any stock damaged by or by reason of fire, which is being sold or disposed of within the municipality in which the business was being carried on at the time of the bankruptcy, insolvency or fire, so long as no goods, wares or merchandise are added to such stock.

*Bona fide*  
purchaser

(c) The by-law does not apply to the sale of a business to a *bona fide* purchaser who continues the business.

Fees

(d) Subject to clause e, the fee to be paid for a licence in the case of a transient trader shall not be less than \$100 in any municipality and shall not exceed in a city or town \$500 and in a township or village \$300.

Resident fee

(e) The fee to be paid for the licence by a farmer, resident in Ontario, who offers for sale only the produce of his own farm shall not exceed \$5.

Credit of fees  
on taxes

(f) The sum paid for a licence shall be credited to the person paying it, or to any *bona fide* purchaser of the business who carries on the business, on account of taxes payable in respect of the business, and in respect of real property taxes on the land used for the purposes of or in connection with the business if the land is owned by the person carrying on the business, during the year in which the licence was issued and five years thereafter.

- (g) Every transient trader who carries on business without a licence is guilty of an offence and on summary conviction is liable to a fine equal to the licence fee that he should have paid and in addition thereto the sum of not less than \$10 and not more than \$200. <sup>Offence</sup>
- (h) Every transient trader shall cause his licence to be prominently and permanently displayed in his place of business during the full term in which he is carrying on business as a transient trader and in default thereof is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$10. <sup>Licence to be displayed</sup>
- (i) Every applicant for a transient trader's licence shall as part of his application for such licence furnish a statement in writing containing a full description of the goods, wares or merchandise that he proposes to sell or offer for sale under such licence. R.S.O. 1950, c. 243, ss. 413, par. 14, 493; 1952, c. 63, s. 20 (2). <sup>Application for licence to contain certain information</sup>

18. For requiring persons not licensed under paragraph 16 or 17 who, after the return of the assessment roll, commence to carry on any business in premises in respect of which they are liable for business assessment to pay a licence fee before commencing such business. <sup>Certain persons commencing business to pay licence fee</sup>

- (a) The amount of such licence fee shall be a sum computed by reference to the tax on such business assessment that such person would have been required to pay for the current year in respect of the premises in which he has commenced business if he had been previously assessed and made liable for such tax, and shall be either one-half the amount of such tax for the whole year or a proportionate part of the same for the balance of the year after he commences business, whichever is the greater. R.S.O. 1950, c. 243, s. 413, par. 15.

**402. By-laws may be passed by the councils of towns and villages and boards of commissioners of police of cities:**

1. For regulating or prohibiting the playing of bands and of musical instruments in any highway, park or public place except by a military band attached to any regular corps of the Militia of Canada when on duty, under the command of its regular officer. <sup>Bands of music</sup>
2. For licensing, regulating and governing persons who for hire or gain purchase or deal in old gold and other precious metals and in old jewellery or other articles for the purpose of <sup>Licensing of dealers in old gold, etc.</sup>



smelting the same and recovering the gold therefrom, and for revoking any such licence.

- (a) The fee to be paid for a licence shall not exceed \$25 per year. R.S.O. 1950, c. 243, s. 414, pars. 1, 2.

Salvage  
shops  
buying from  
minors

3. For prohibiting keepers of second-hand goods shops or salvage stores or shops directly or indirectly purchasing from, exchanging with, or receiving in pledge, from any minor appearing to be under the age of eighteen years, without written authority from a parent or guardian of such minor, any metals, goods or articles. R.S.O. 1950, c. 243, s. 414, par. 4.

**403. By-laws may be passed by boards of commissioners of police of cities:**

Occupations  
of children

1. For regulating and controlling children engaged as express or dispatch messengers, vendors of smallwares and bootblacks.

Regulating  
hours of  
labour of  
persons  
employed  
in livery  
stables, etc.

2. For regulating the hours of labour of persons employed in livery or boarding stables as drivers of motor vehicles, cabs, carriages or sleighs kept for hire, or by the owners of horses, carts, trucks, omnibuses and other vehicles kept for hire.

Regulating  
traffic and  
parades

3. For regulating parades or processions on highways and, from time to time and as occasion may require, prescribing the routes of travel to be observed by all vehicles, horses and persons upon the highways, and preventing the obstruction of the highways during public processions or public demonstrations, and for giving directions to constables for keeping order, and preventing any collision or obstruction of traffic at the intersections or other frequented portions of the highways, on all occasions when the highways are thronged or liable to obstruction.

- (a) This paragraph does not affect the right, if any, of a street railway company to regulate the routes of its cars and no regulation or direction that may affect a street railway company shall be made or given until the company has been afforded an opportunity of being heard. R.S.O. 1950, c. 243, s. 415.

County  
council to  
make pro-  
vision for  
destitute  
mental de-  
fectives, etc.  
R.S.O. 1960,  
c. 236

**404.** The council of every county shall make provision for the whole or partial support within the county of such mentally ill, mentally defective or epileptic destitute persons as cannot be admitted to an institution within the meaning of *The Mental Hospitals Act*, and shall determine the sums to be paid for such support and the persons to whom the same shall be paid. R.S.O. 1950, c. 243, s. 416.

**405.**—(1) The council of a municipality may pass by-laws Daily remuneration of councillors for paying the members of the council for attendance at meetings of council, or of its committees, at the following rates:

- (a) in the case of a county, at a rate not exceeding \$20 a day;
- (b) in the case of a local municipality having a population of 120,000 or more, at a rate not exceeding \$30 a day;
- (c) in the case of a local municipality having a population of 20,000 or more but under 120,000, at a rate not exceeding \$25 a day;
- (d) in the case of a local municipality having a population of 10,000 or more but under 20,000, at a rate not exceeding \$20 a day;
- (e) in the case of a local municipality having a population of under 10,000, at a rate not exceeding \$16 a day.

1959, c. 62, s. 22.

(2) Where a member of a council is paid remuneration under section 203, 212 or 406, such member is not entitled to payment under this section for attendance at meetings. Where member receives salary

(3) In the case of a council of a county or a township, the by-law may provide for the payment of not more than 10 cents a mile for each mile necessarily travelled in attending such meetings. Mileage allowance

(4) The provisions of this section shall be deemed to authorize payments at the rates and limitations mentioned in subsection 1 to members of the council for their services as members of any utility commission to which they are appointed under the authority of any general or special Act. Fees to council members on utility commission  
1952, c. 63, s. 22, *part.*

**406.**—(1) The council of a local municipality may pass by-laws for paying the members of council an annual allowance as follows: Annual remuneration, of councillors of local municipalities

- (a) where the population exceeds 300,000, an annual allowance not exceeding \$4,000;
- (b) where the population exceeds 200,000 but is less than 300,000, an annual allowance not exceeding \$3,500;
- (c) where the population exceeds 120,000 but is less than 200,000, an annual allowance not exceeding \$3,000;
- (d) where the population exceeds 20,000 but is less than 120,000, an annual allowance not exceeding \$1,500;
- (e) where the population exceeds 10,000 but is less than 20,000, an annual allowance not exceeding \$1,000;

(f) where the population exceeds 5,000 but is less than 10,000, an annual allowance not exceeding \$750;

(g) where the population is 5,000 or less, an annual allowance not exceeding \$350.

of counties

(2) The council of a county may pass by-laws for paying the members of council an annual allowance not exceeding \$1,000.

of chairmen

(3) The council of a municipality may pass by-laws for paying, in addition to the amounts set out in subsections 1 and 2, an annual allowance not exceeding \$200 to each chairman of a standing committee and to the chairman of the court of revision and of the local board of health.

Deduction  
for absence

(4) Every by-law passed under subsection 1 shall provide for the deduction from the annual allowance of a reasonable sum to be fixed by the council for each day's absence from ordinary meetings and may provide that, where a councillor is absent from the municipality in the performance of his duties as councillor or by reason of his illness or a death in the family, the council, by resolution, may provide that no deduction from his annual allowance shall be made in respect of such absence. 1959, c. 62, s. 23.

Annual  
allowances  
for local  
board  
R.S.O. 1960,  
c. 98

**407.** A local board as defined in *The Department of Municipal Affairs Act*, except school and library boards, may provide for the payment of such annual allowance for the members thereof as may be approved by the Department. R.S.O. 1950, c. 243, s. 419.

Expense  
allowance

**408.** Notwithstanding the other provisions of this Act or any other general or special Act, where an elected member of a council of a municipality or a local board, as defined in *The Department of Municipal Affairs Act*, is, under a by-law or resolution of the council or such local board, paid a salary, indemnity, allowance or other remuneration, one-third of such amount, but not exceeding \$2,000, shall be deemed to be for expenses incident to the discharge of his duties as a member of the council or such local board. 1953, c. 70, s. 16.

Appointment  
of member  
of council  
as commis-  
sioner, etc.

**409.** A member of the council of a county, village or township may be appointed commissioner, superintendent or overseer of any work, other than a highway, undertaken wholly or in part at the expense of the corporation, and may be paid the like remuneration for his services as if he were not a member of the council. R.S.O. 1950, c. 243, s. 420; 1958, c. 64, s. 34.



**410.** The council of any municipality may pay for or towards, Expenses for entertaining guests and for travelling on civic business

- (a) the reception or entertainment of persons of distinction or the celebration of events or matters of national or international interest or importance; and
- (b) the travelling and other expenses of the members of council and of the officers and servants of the municipality while travelling outside the municipality in their capacity as councillors, officers or servants a sum not exceeding in any one year,

(i) in the case of a local municipality having a population of,

not less than 500,000.....	\$50,000
not less than 200,000.....	30,000
not less than 100,000.....	20,000
not less than 50,000.....	10,000
not less than 20,000.....	3,000
not less than 10,000.....	2,000
less than 10,000.....	1,000

(ii) in the case of a county..... 2,500

and such sums do not include expenditures made under paragraphs 10, 11, 12, 13 and 14 of section 377 or expenditures for travelling and other expenses of the officers and servants of the municipality while travelling on normal business of the municipality within or outside the municipality, but do include expenses of members of council and of officers and servants of the municipality for attending other conventions and receptions. 1960, c. 69, s. 22.

**411.**—(1) The council of a municipality having a population of not less than 5,000 may pass by-laws for the establishment and maintenance of a department of industries and for appointing a commissioner of industries to bring to the notice of manufacturers and others the advantages of the municipality as an industrial, business, educational, residential or vacation centre. Industries department and commissioner

(2) The council of a local municipality may expend in any year a sum not exceeding the amount of one mill in the dollar on the total of its taxable assessment up to \$10,000,000 of taxable assessment, and an additional one-tenth of one mill in the dollar on that part of its total taxable assessment in excess of \$10,000,000 for the purpose of paying any expenses of its department and commissioner of industries, if any, and for the purpose of diffusing information respecting the advan- Expenditures for publicity

tages of the municipality as an industrial, business, educational, residential or vacation centre, but no local municipality shall expend in one year an amount exceeding \$60,000 for such purposes.

Idem

(3) The council of a county may expend in any year a sum not exceeding \$1,500 for the purposes mentioned in subsection 2.

Pooling expenditures

(4) Any two or more municipalities may pool their funds and act jointly for the purposes of this section.

Exceeding prescribed limits

(5) Notwithstanding the limits prescribed in subsections 2 and 3, with the assent of the electors qualified to vote on money by-laws, the council of any municipality may expend in any year such sum for the purposes of this section as may be so assented to. 1951, c. 53, s. 23.

## PART XX

### HIGHWAYS AND BRIDGES

Interpretation

**412.**—(1) In this Part, “county bridge” means a bridge under the exclusive jurisdiction of the council of a county.

Exception

(2) Except as provided by section 427, this Part does not apply to a Provincial road or bridge under the control of the Crown. R.S.O. 1950, c. 243, s. 423.

Power to acquire part of highway

**413.** Where power is conferred by this Part upon a council to pass by-laws for acquiring or for assuming a highway, it includes the power to pass by-laws for acquiring or for assuming part of a highway. R.S.O. 1950, c. 243, s. 424.

What councils to exercise powers re highways and bridges

**414.** Where power to pass by-laws in respect of a highway or bridge is conferred by this Act on a council, unless otherwise expressly provided it is exercisable only by the council having jurisdiction over the highway or bridge or, if the highway or bridge is under the joint jurisdiction of two or more councils, only by the joint action of such councils, and a by-law by all of them is necessary for the exercise of such power. R.S.O. 1950, c. 243, s. 425.

What constitutes public highways

**415.** Except in so far as they have been stopped up according to law, all allowances for roads made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been expended for opening them or on which statute labour has been usually performed, all roads passing through Indian lands, all roads dedicated by the owner of the land to public

use, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, are common and public highways. R.S.O. 1950, c. 243, s. 426.

**416.**—(1) Unless otherwise expressly provided, the soil and freehold of every highway is vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under this or any other Act. Highways vested in corporation having jurisdiction over them

(2) In the case of a dedicated highway, such vesting is subject to any rights in the soil reserved by the person who laid out or dedicated the highway. R.S.O. 1950, c. 243, s. 427. Reservation of rights in soil

**417.** Except where jurisdiction over them is expressly conferred upon another council, the council of every municipality has jurisdiction over all highways and bridges within the municipality. R.S.O. 1950, c. 243, s. 428. Jurisdiction of councils over highways

**418.** Sections 416 and 417 do not apply to roads or bridges owned by companies or individuals. R.S.O. 1950, c. 243, s. 429. Exception as to road owned by company, etc.

**419.**—(1) The council of a county has jurisdiction over, Jurisdiction of county councils over roads and bridges

(a) every highway, bridge and boundary line assumed by the council;

(b) every bridge crossing a river, stream, pond or lake forming or crossing a boundary line between local municipalities, other than a city or separated town in the county;

(c) every bridge crossing a river or stream over 100 feet in width within the limits of a village in the county where the bridge forms part of a main highway leading through the county.

(2) The council may provide that the jurisdiction conferred upon it by clause *b* of subsection 1 shall not extend to bridges over rivers, streams, ponds or lakes, less than 80 feet in width or of such width less than 80 feet as may be specified in the by-law. R.S.O. 1950, c. 243, s. 430. Power to limit jurisdiction

**420.** The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between counties have joint jurisdiction over such bridges. R.S.O. 1950, c. 243, s. 431. Jurisdiction over bridges on county boundaries



Jurisdiction  
over bridges  
on bound-  
aries  
between  
county and  
city, etc.

**421.** The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between a county and a city or separated town have joint jurisdiction over such bridges. R.S.O. 1950, c. 243, s. 432.

Jurisdiction  
over bound-  
aries  
between  
local muni-  
cipalities

**422.** The councils of the local municipalities between which they run have joint jurisdiction over all boundary lines, whether or not they form also county boundary lines, which have not been assumed by the council of the county, and over the bridges on them except such bridges crossing rivers, streams, ponds or lakes forming or crossing such boundary lines as by this Act are under the jurisdiction of another council or other councils. R.S.O. 1950, c. 243, s. 433.

Jurisdiction  
where corpo-  
ration owns  
bridge, etc.,  
in another  
municipality

**423.** Where a boulevard, drive or highway or a public avenue or walk is owned or has been opened and laid out or is under the authority of this Act assumed, or a bridge is owned or has been constructed or is under the authority of this Act assumed by the corporation of a municipality other than that in which it is situate, the council of that corporation has jurisdiction over it. R.S.O. 1950, c. 243, s. 434.

Assumption  
by villages  
of bridges  
under  
control of  
county

**424.—**(1) The council of a village may pass by-laws for the assumption by the corporation of the village, with the consent of and on such terms and conditions as may be agreed on with the council of the county, of any bridge within the limits of the village and under the jurisdiction of the council of the county.

Effect of  
by-law

(2) When the by-law takes effect, the bridge ceases to be under the jurisdiction of the council of the county and comes and thereafter remains under the jurisdiction of the council of the village, and is and shall remain toll free. R.S.O. 1950, c. 243, s. 435.

Approaches  
to bridges

**425.** The council having jurisdiction over a bridge has jurisdiction over the approaches to it for 100 feet next adjoining each end of the bridge. R.S.O. 1950, c. 243, s. 436.

Agreements  
between  
adjoining  
municipali-  
ties as to  
maintenance  
of boundary  
road

**426.—**(1) The corporations of adjoining municipalities may enter into an agreement for the maintenance and repair of any highway forming the boundary between such municipalities, including the bridges thereon that it is their duty to maintain and repair, whereby each of them may undertake, for a term of years not to exceed ten years, to maintain and keep in repair any portion of such highway for its whole width, and to indemnify and save harmless the other from any loss or damage arising from the want of repair of such portion.

(2) When the agreement is confirmed by by-law of the council of each of the municipalities, the by-law shall be registered in the registry office of the registry division in which the highway is situate. Agreement to be registered

(3) After the registration of the by-law, each corporation has jurisdiction over that portion of the road that it has undertaken to maintain and keep in repair, and is liable for the damages incurred by reason of neglect to maintain and keep the same in repair, and the other corporation is relieved from all liability in respect of its maintenance and repair. Effect  
R.S.O. 1950, c. 243, s. 437.

**427.** Where the Lieutenant Governor in Council by proclamation declares, which it is lawful for him to do, that any public road or bridge under the control of the Minister of Highways shall not be under his control after a day named in the proclamation, such road or bridge after that day ceases to be under the control of the Minister, and no tolls shall be collected thereon and the road or bridge is under the jurisdiction of the council of the local municipality in which it is situate, or if it is partly situate in two or more municipalities is under the jurisdiction of the councils of such municipalities, each having jurisdiction over the part that lies within its municipality, or if it lies between two or more municipalities is under the joint jurisdiction of their councils. Proclamation bringing government road or bridge under jurisdiction of municipality  
R.S.O. 1950, c. 243, s. 438.

**428.—**(1) The council of a county may by by-law assume as a county road any highway, or as a county bridge any bridge, within a town, not being a separated town, or within a village or township. Assumption by county councils of highways, bridges and boundary lines

(2) The by-law does not take effect until assented to by the council of the town, village or township. Assent

(3) The council of a county may also by by-law assume as a county road any county or township boundary line. County or township boundary

(4) The council of a county may also by by-law assume as a county road any highway in a town, not being a separated town, or in a village or township that connects with a county road. Connecting road in town

(5) Where a highway is assumed under this section, the bridges thereon shall also be assumed as county bridges. Bridges on such highway

(6) A by-law passed under this section may be at any time repealed by the council of the county. Repeal of by-law

(7) After the repeal of the by-law, such highway or bridge ceases to be under the jurisdiction of the council of the county. Effect of repeal

and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

**Grants in aid** (8) Where a county assumes a highway or bridge under this section, the town, village or township within which the highway or bridge is situate may make grants to the county in aid of the maintenance or reconstruction thereof and the maintenance of the reconstructed highway or bridge or, where the highway or bridge is relocated, in aid of the construction and maintenance of the relocated highway or bridge. R.S.O. 1950, c. 243, s. 439.

**Assuming highway in adjacent municipality as a public avenue or walk** **429.**—(1) The council of a city or town may pass by-laws for assuming for the purpose of a public avenue or walk any highway in an adjacent local municipality and for acquiring so much land on either side of such highway as may be required to increase its width to not more than 100 feet.

**Assent of other council** (2) The by-law does not take effect until it is assented to by by-law of the council of the adjacent municipality. R.S.O. 1950, c. 243, s. 440.

**Abandonment by county of roads** **430.**—(1) The council of a county may by by-law abandon the whole or any part of a toll road owned by the corporation of the county or of any other road owned by it, whether the road is situate wholly within the county or partly within it and partly within an adjoining county.

**Clerk to transmit copies of by-law** (2) Forthwith after the passing of the by-law, the clerk shall transmit by registered mail to the clerk of every local municipality through or along or on the border of which the road runs a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

**Approval of Municipal Board** (3) The by-law does not take effect until it is approved by the Municipal Board, nor does it take effect as to the part of the road lying within or along or on the border of a local municipality whose council does not by by-law assent to the by-law.

**Jurisdiction after abandonment** (4) From and after the taking effect of the by-law, the council of a municipality within which any part of the road so abandoned lies has jurisdiction over that part of it that lies within the municipality and, where any part of a road so abandoned lies between or on the border of two or more local municipalities, the councils of such municipalities have joint jurisdiction over that part of it.

**Exception** (5) Nothing in this section extends or applies to a bridge that under this Act is to be maintained wholly or partly by the corporation of the county. R.S.O. 1950, c. 243, s. 441.



**431.**—(1) A bridge of a greater length than 300 feet in a town having an equalized assessment of less than \$1,000,000 or in a township may, on the application of the council of the town or township, be declared to be a county bridge where, Bridges over 300 ft. in length in townships and certain towns may be declared county bridges

(a) it is used by the inhabitants of other municipalities;

(b) it is situate on an important highway affording means of communication to several municipalities; and

(c) on account of its length and for the reasons mentioned in clauses *a* and *b*, it is unjust that the burden of maintaining and repairing it should rest upon the corporation of the town or township.

(2) An order declaring the bridge to be a county bridge may be made by a judge of the county court of the county in which it is situate, on the application of the council of the town or township. Order of Judge

(3) Notice of the application shall be served on the corporation of the county at least thirty days before the day on which it is to be made. Notice of application

(4) Each corporation is entitled to be represented by counsel on the hearing of the application, and the evidence may, if the judge sees fit, and shall, if either party so requests, be given under oath. Hearing

(5) If the judge is of opinion that for the reasons mentioned in subsection 1 the bridge should be declared to be a county bridge, he shall by his order so declare, and in that case he shall determine whether the expense of maintaining and repairing the bridge shall be borne by the corporation of the county or partly by it and partly by the corporation of the town or township and, if he determines that it should be borne partly by each, he shall fix the proportions in which the expense is to be so borne, and his declaration and determination shall be embodied in the order. Power of Judge

(6) If the order declares the bridge to be a county bridge, it shall be registered in the registry office of the registry division in which the bridge is situate. Registration of order

(7) An appeal lies from the order of the judge to the Court of Appeal and the proceedings upon and incidental to the appeal shall be the same as in the case of an appeal from a judge of the Supreme Court sitting in court. Appeal

(8) If the order is reversed or varied by the order of the Court of Appeal or if an order declaring the bridge to be a county bridge is made by the Court of Appeal, the order of that court shall be registered as provided by subsection 6. Registration of order of Court of Appeal

Effect of  
order after  
registration

(9) Where the order of the judge of the county court declares the bridge to be a county bridge, except where it is reversed, and subject to any variation of it on appeal, from and after the registration of the order, or, where the order has been reversed and an order declaring the bridge to be a county bridge has been made by the Court of Appeal, from and after the registration of the order of the Court of Appeal, the bridge is a county bridge.

Payment to  
county of  
proportion of  
maintenance

(10) Whenever any expenditure is made by the corporation of the county in maintaining or repairing the bridge a proportion of which the corporation of the town or township is by the order required to bear, that proportion of the expenditure is payable by the last-named corporation to the corporation of the county on demand.

When new  
application  
may be made

(11) Where the application is dismissed, either by the order of the judge of the county court or by the order of the Court of Appeal, a new application shall not be made until five years have elapsed from the date of the order, and any new application thereafter made may be dealt with without regard to the former order, and subsections 1 to 10 apply *mutatis mutandis* to the application.

Approaches,  
when to  
form part  
of bridge

(12) In the case of a bridge crossing a river, stream, pond or lake, the approaches to the bridge, whether consisting of embankments or other artificial works to the extent to which they are rendered necessary on account of the waters of the river, stream, pond or lake overflowing the highway on one or on both sides of the river, stream, pond or lake in times of freshets or at any other time, shall be deemed for the purpose of this section to form part of the bridge.

Application  
of section to  
construction  
and renewal  
of bridge

(13) This section also applies to a bridge that it is proposed to construct, including a bridge to replace an existing one and a bridge to replace one that has been carried away or destroyed or so damaged that it is necessary to rebuild it, and the application may be made before the work of construction is begun.

Determina-  
tion by  
judge as to  
length of  
bridge  
required

(14) In the case of an application to which subsection 13 applies, it is the duty of the judge to consider and determine whether a bridge of the length of that which it is proposed to erect is necessary for the purpose for which it is to be erected and, if he is of opinion that a bridge of 300 feet or less will be sufficient for that purpose, it is the duty of the judge so to determine and to refuse to make an order under this section.

Power to  
agree as to  
maintenance

(15) In the case provided for by this section, the council of the town or township and the council of the county may at

any time enter into an agreement as to the proportions in which the cost of maintaining the bridge and keeping it in repair shall be borne by their respective corporations, or in a case to which subsection 13 applies as to the proportions in which the cost of constructing and maintaining the bridge and keeping it in repair shall be borne by their respective corporations.

(16) The agreement shall provide that the bridge shall thereafter or after a day to be named be under the exclusive jurisdiction of the council of the county or remain under the jurisdiction of the council of the town or township. What agreement to provide

(17) The terms of the agreement shall be embodied in an order of the judge of the county court which may be made upon the application of either corporation, and the order so made supersedes any former order made by him. Order of judge embodying agreement

(18) If the agreement provides that the bridge is to come under the exclusive jurisdiction of the council of the county, the order made under subsection 17 shall so declare. Idem

(19) The order made under subsection 17 shall be registered as provided by subsection 6 and has the same effect as an order upon an application made under subsection 2, but the order is not subject to appeal. R.S.O. 1950, c. 243, s. 442. Registration of order

**432.** The council of a county which assumes, as a county road or bridge, any highway or bridge within a township shall with as little delay as reasonably may be and at the expense of the county cause the highway to be graded and drained and gravelled, macadamized, or surfaced or paved with other permanent material, or the bridge to be built in a good and substantial manner, and shall maintain and keep the same in repair. R.S.O. 1950, c. 243, s. 443. Highways assumed by county to be gravelled, etc.

**433.** The council of the county shall cause to be built and maintained at the expense of the corporation of the county the bridges mentioned in clauses *b* and *c* of subsection 1 of section 419. R.S.O. 1950, c. 243, s. 444. County to build and maintain certain bridges

**434.—**(1) Where a river, stream, pond or lake forms or crosses a boundary line between two or more counties, it is the duty of the corporations of the counties and, where it forms or crosses a boundary line between a county and a city or a separated town, it is the duty of the corporations of the county and the city or separated town to erect and maintain bridges over such river, stream, pond or lake. Maintenance of bridges on county boundary lines

(2) The council of a county may by by-law provide that the duty imposed upon the corporation by subsection 1 shall By-law restricting duty



not extend to bridges over rivers, streams, ponds or lakes less than twenty feet in width. R.S.O. 1950, c. 243, s. 445.

Maintenance  
of boundary  
lines

**435.**—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities, and they shall also erect and maintain all necessary bridges on such boundary lines.

Exceptions

(2) Subsection 1 does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be erected or maintained by another corporation. R.S.O. 1950, c. 243, s. 446.

Local  
municipalities  
to  
erect and  
maintain  
certain  
bridges

**436.** Where the council of a county passes a by-law under subsection 2 of section 419 or subsection 2 of section 434, it is the duty of the councils of the local municipalities to erect and maintain all necessary bridges from the erection and maintenance of which the council of the county is relieved by the by-law. R.S.O. 1950, c. 243, s. 447.

Maintenance  
of boundary  
lines and  
bridges in  
provisional  
judicial  
district

**437.** All boundary lines, and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more local municipalities in a provisional judicial district, shall be erected and maintained by the corporations of such municipalities and their councils have joint jurisdiction over them and, if the councils fail to agree as to the proportion of the expense to be borne by each corporation, the same shall be determined by arbitration. R.S.O. 1950, c. 243, s. 448.

Notice of  
excavating  
to owner of  
utility works

**438.** Where digging, trenching or excavating with mechanical equipment upon a highway by a municipality or any person entitled so to do may interfere with a gas pipe line, telephone line, works for the distribution and supply of electrical power, water mains or sewers, the municipality shall, except in an emergency or unless otherwise agreed between the municipality and the owner of such works, at least twenty-four hours before the work is to be commenced, notify the owner of the works that such digging, trenching or excavating is to be done. 1960, c. 69, s. 23.

Keeping  
rivers free  
from drift-  
wood, etc.

**439.**—(1) Where a river or stream forms a boundary line between two or more municipalities in a county, the corporation of the county shall keep it free from all accumulations of driftwood or fallen timber.

(2) Where the river or stream forms a boundary line between two or more counties, the duty mentioned in subsection 1 shall be performed by the corporations of the counties and, where the river or stream forms the boundary line between a county and a city or separated town, shall be performed by the corporation of the county and the corporation of the city or separated town, and, in case of failure to agree in either case as to the share or proportion of the expense incurred in performing the duty to be borne by them respectively, the same shall be determined by arbitration. R.S.O. 1950, c. 243, s. 449.

What corporations to perform the work and apportionment of expense

**440.**—(1) Where a stream or creek is cleared of all logs, brush or other obstructions to the boundary line between a township and an adjoining township into which the stream or creek flows, the council of the township in which the stream or creek has been so cleared may give notice in writing to the corporation of such adjoining township requesting its council to clear such stream or creek through the municipality.

Keeping stream free from logs, brush, etc., in township

(2) It is the duty of such last-mentioned corporation, within six months after the service of the notice, to enforce the removal of all obstructions in such stream or creek within the municipality to the satisfaction of any person whom the council of the county in which the municipality whose council gave the notice is situate appoints to inspect the same.

Other township to remove obstructions

(3) If the corporation receiving the notice neglects to perform such duty and by reason of its neglect any highway or bridge in either of the townships becomes out of repair, the corporation in default, and that corporation only, is responsible for the damages sustained by any person by reason of such want of repair. R.S.O. 1950, c. 243, s. 450.

Effect of failure to perform duty

**441.** Where, on account of physical difficulties or obstructions existing on a boundary line between municipalities and in order to obtain a better line of road, a road has been heretofore or is hereafter laid out and opened that does not follow the course of such boundary line throughout, but in some place or places so deviates from it as to lie wholly within one of the municipalities, such road shall nevertheless be deemed to be, for the purposes of this Act, the boundary line between the municipalities, and a river, stream, pond or lake that crosses it where it so deviates shall be deemed to be a river, stream, pond or lake crossing a boundary line within the meaning of this Act. R.S.O. 1950, c. 243, s. 451.

Deviations of boundary lines

**442.**—(1) Every iron, steel, concrete or stone bridge constructed by the corporation of a county, and every such bridge exceeding twenty feet clear span constructed by the corpo-

Specifications for certain bridges

ration of a township, shall be designed and built in accordance with general specifications approved by the Department of Highways.

Duplicate  
plans to be  
submitted

(2) Plans in duplicate for any such bridges may be submitted by the council of any county or township to the Department of Highways and, if they are found to be in accordance with such approved general specifications, the certificate of the Department shall be attached, and one of the plans shall be returned to the clerk of the county or township. R.S.O. 1950, c. 243, s. 452.

Liability for  
repair of  
public roads,  
etc.

**443.**—(1) Every highway and every bridge shall be kept in repair by the corporation the council of which has jurisdiction over it or upon which the duty of repairing it is imposed by this Act and, in case of default, the corporation, subject to *The Negligence Act*, is liable for all damages sustained by any person by reason of such default.

R.S.O. 1960,  
c. 261

Limitation  
of actions

(2) No action shall be brought against a corporation for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained.

Insufficiency  
of fences,  
etc.

(3) No action shall be brought against a corporation for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier, or caused by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or object adjacent to or in, along or upon any highway or any part thereof not within the travelled portion of such highway.

Snow or  
ice on  
sidewalks

(4) Except in case of gross negligence, a corporation is not liable for a personal injury caused by snow or ice upon a sidewalk.

Notice of  
action

(5) No action shall be brought for the recovery of the damages mentioned in subsection 1 unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered mail to the head or the clerk of the corporation, in the case of a county or township within ten days, and in the case of an urban municipality within seven days, after the happening of the injury, nor unless, where the claim is against two or more corporations jointly liable for the repair of the highway or bridge, the prescribed notice was given to each of them within the prescribed time.

When failure  
to give  
notice of  
claim is not  
a bar to  
action

(6) In the case of the death of the person injured, failure to give notice is not a bar to the action and, except where the injury was caused by snow or ice upon a sidewalk, failure to



give or insufficiency of the notice is not a bar to the action, if the court or judge before whom the action is tried is of the opinion that the corporation in its defence was not prejudiced by the want or insufficiency of the notice and that to bar the action would be an injustice, notwithstanding that reasonable excuse for the want or insufficiency of the notice is not established.

(7) This section does not apply to a road, street or highway laid out or to a bridge built by a private person or by a body corporate until it is established by by-law of the council or otherwise assumed for public use by the corporation. To what roads applicable

(8) Nothing in this section imposes upon a corporation any obligation or liability in respect of any act or omission of any person acting in the exercise of any power or authority conferred upon him by law, and over which the corporation had no control, unless the corporation was a party to the act or omission, or the authority under which such person acted was a by-law, resolution or licence of its council. When corporation not responsible for acts of others

(9) A corporation is not liable for damages under this section unless the person claiming the damages has suffered by reason of the default of the corporation a particular loss or damage beyond what is suffered by him in common with all other persons affected by the want of repair. When corporation not liable for damages

(10) Where a bridge that it is the duty of a corporation to repair is destroyed or so damaged that it is necessary to rebuild it, the Municipal Board may, upon the application of the corporation, relieve it from the obligation to rebuild the bridge, if the Board is satisfied that it is no longer required for the public convenience or that the rebuilding of it would entail a larger expenditure than would be reasonable having regard to the use that would be made of the bridge if it were rebuilt. Relief from obligation to rebuild

(11) The relief may be granted on such terms and conditions as the Board may deem just, and such notice of the application shall be given as the Board may direct. Conditions of granting relief

(12) Subsections 10 and 11 do not affect the costs of any pending action. R.S.O. 1950, c. 243, s. 453. Costs of pending actions

**444.** The provisions of subsections 2 to 9 of section 443 apply to an action brought against a corporation for damages occasioned by the presence of any nuisance on a highway. R.S.O. 1950, c. 243, s. 454. Action for damages for nuisance on highway

**445.** Where a municipal corporation clears or attempts to clear snow from an unopened road allowance, private road or private lane by means of a snow plough or otherwise, no Snow removal

liability attaches to the corporation in so doing. R.S.O. 1950, c. 243, s. 455.

Registration of plan not to create highway repair liability  
R.S.O. 1960, c. 296

**446.** The approval of a plan of subdivision under *The Planning Act* and the registration thereof shall not be deemed to be an assumption by the corporation of the municipality wherein the land comprised in the plan is situate of any highways shown on the plan so as to render the corporation liable for repair or for damages resulting from non-repair within the meaning of section 443. R.S.O. 1950, c. 243, s. 456.

Issue of debentures for re-flooring bridge

**447.** The corporation of a city or town in which an iron, steel or concrete bridge is constructed may pass a by-law authorizing the issue of and may issue debentures to pay the cost of re-flooring the bridge, for any term not exceeding ten years and at such rate of interest as the council may determine, provided that such by-law is passed by a vote of two-thirds of all the members of the council and is approved by the Municipal Board. R.S.O. 1950, c. 243, s. 457.

Apportionment of damages

**448.—**(1) Where two or more corporations are jointly liable for keeping in repair a highway or bridge, there shall be contribution between them as to the damages sustained by any person by reason of their default in so doing.

Action to be against all corporations

(2) Any action by any such person shall be brought against all such corporations, and any of them may require that the proportions in which such damages and the costs of the action are to be borne by them shall be determined in the action.

What to be taken into account

(3) In settling such proportions, either in the action or otherwise, regard shall be had to the extent to which each corporation was responsible, either primarily or otherwise, for the act or omission by reason of which the damages became payable or are recoverable and the damages and costs shall be apportioned between them accordingly. R.S.O. 1950, c. 243, s. 458.

Members of council and employees not liable for non-repair of highways

**449.—**(1) Where an action may be brought against a corporation by a person who has sustained damages by reason of its default in keeping in repair a highway or bridge, no action shall be brought by him in respect of it or to recover such damages or any part of them against any member of the council or officer or employee of the corporation personally, but the remedy therefor is against the corporation.

Contractors not deemed employees

(2) A mere contractor with the corporation or an officer or employee who is such contractor, by reason of whose act or omission the damages were caused, shall not be deemed an employee within the meaning of subsection 1. R.S.O. 1950, c. 243, s. 459.

**450.**—(1) Where an action is brought to recover damages sustained by reason of any obstruction, excavation or opening in or near a highway or bridge placed, made, left or maintained by any person other than the corporation or a servant or agent of the corporation, or by reason of any negligent or wrongful act or omission of any person other than the corporation or a servant or agent of the corporation, the corporation has a remedy over against such other person for and may enforce payment of the damages and costs that are recovered against the corporation. Remedy over for damages caused by non-repair against persons causing same

(2) The corporation is entitled to such remedy over in the same action if the other person is a party to the action and it is established in the action as against him that the damages were sustained by reason of an obstruction, excavation or opening so placed, made, left or maintained by him. Remedy over in same action

(3) The corporation may in such action have the other person, if not already a defendant, added as a party defendant or third party for the purposes of the remedy over, and such person may defend the action as well against the plaintiff's claim as against the claim of the corporation. Adding party defendant

(4) If such person is not a party defendant, or is not added as a party defendant or third party, or if the corporation has paid the damages before an action is brought to recover the same, or before a recovery thereof in an action against the corporation, the corporation has the remedy over, by action against such person, but he shall be deemed to admit the validity of the judgment obtained against the corporation only where a notice has been served on him, pursuant to rules of court, or where he has admitted or is estopped from denying the validity of such judgment. Where person causing damage has not been made a party

(5) Where such notice has not been served, and there has been no such admission or estoppel, and such person has not been made a party defendant or third party to the action against the corporation, or where the damages have been paid without action, or without recovery of judgment against the corporation, the liability of the corporation for such damages, and the fact that the damages were sustained under such circumstances as to entitle the corporation to the remedy over, must be established in the action against such person to entitle the corporation to recover in the action. R.S.O. 1950, c. 243, s. 460. When a fresh action is necessary

**451.** When there is a dispute between the councils of any two or more corporations as to the corporation on which the obligation to build and maintain or to build or maintain a bridge or to keep in repair a highway rests, the Supreme Court may upon the application of any or either of the corporations Determination of disputes as to duty to erect and maintain bridge or repair highway



determine the matter in dispute on an originating motion, or the court, if of opinion that the matter in dispute cannot satisfactorily be determined on an originating motion or that for any other reason it ought not to be so determined, may direct that an action may be brought or that an issue be tried for the purpose of determining the matter in dispute, and the court may in either case compel by mandamus the performance of the obligation by the corporation upon which it is found to rest. R.S.O. 1950, c. 243, s. 461.

Disputes as to apportionment of cost of erecting or maintaining

**452.** Except in the cases provided for by section 455, where the dispute is as to the proportions in which the corporations should contribute to the cost of erecting and maintaining or of erecting or maintaining a bridge or of keeping in repair a highway, the matter in dispute shall be determined by arbitration. R.S.O. 1950, c. 243, s. 462.

Laying out highway where no original allowance

**453.**—(1) Where an allowance for road was not reserved in the original survey on a township boundary or part of it, the councils of the townships may establish and lay out a highway on such boundary or part of it.

Passing by-law for

(2) The councils of any or either of the municipalities may pass a by-law for establishing and laying out such a highway and for acquiring the land requisite for the one-half of it that lies within the limits of its municipality.

Copy of by-law to be sent to other townships

(3) The clerk shall within four days after the passing of the by-law transmit by registered mail to the clerk of each of the other townships a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Arbitration

(4) If the other council or councils do not within six months after such notice pass a by-law or by-laws in similar terms, the council by which the by-law was passed may require the question of establishing and laying out the proposed highway to be determined by arbitration.

Power of arbitrator

(5) The arbitrator shall determine whether or not the proposed highway shall be established and laid out and, if he determines that it shall be established and laid out, he shall also determine in what proportions the cost of the site of it shall be borne by each of the corporations.

Duties of other townships when arbitrator determines that highway should be laid out

(6) If it is determined by the arbitrator that the proposed highway shall be established and laid out, the other councils shall forthwith after notice of the award pass the necessary by-laws for establishing and laying out the proposed highway and for acquiring the land requisite for the one-half of it that will lie within the limits of their respective municipalities, and for otherwise carrying out the award, and shall proceed with all reasonable dispatch to carry into effect the by-law.

(7) If it is determined by the arbitrator that the proposed highway shall not be established and laid out, no further proceedings shall be taken under this section within two years from the date of the award or within such time not exceeding in all four years, as the arbitrator may by his award determine. R.S.O. 1950, c. 243, s. 463.

**454.**—(1) Where a highway or bridge is under the joint jurisdiction of the councils of two or more municipalities and they are unable to agree as to any action which one or more of them desire to be taken in the exercise of such joint jurisdiction, any of them may require that the matter in dispute shall be determined by arbitration, and in that case shall prepare a draft by-law for carrying into effect what it is desired shall be done, and serve a copy of it on the clerks of the other municipalities with a notice that it is its desire that such a by-law shall be passed.

(2) If it is determined by the arbitrator that what is proposed ought to be done, he shall by his award so direct, and in that case each council shall forthwith after notice of the award pass a by-law in accordance with the draft by-law and shall, without unnecessary delay, do all things that on its part are necessary for carrying into effect the objects of the by-law. R.S.O. 1950, c. 243, s. 464.

**455.**—(1) Where the councils of the townships having joint jurisdiction over a township boundary line fail to agree as to the character of the work to be done in opening, maintaining or repairing it, or as to the proportions in which the cost of the work is to be borne by the corporations of the townships respectively, any or either of such councils may apply to the council of the county to determine the matters in dispute.

(2) Where the township councils having the joint jurisdiction over it neglect or refuse to open up and make, maintain and keep in repair any such boundary line, a majority of the ratepayers resident on land abutting on it may apply to the council of the county to enforce the opening up and the making, maintaining and keeping in repair of such boundary line.

(3) The application shall be by petition and the council of the county after notice to all the corporations interested and after hearing them and the petitioning ratepayers, if the petition is by ratepayers, or such of them as desire to be heard, shall determine in the case provided for by subsection 1 what work shall be done and the proportions in which the cost of it shall be borne by the corporations of the townships respectively and, in the case provided for by subsection 2, whether the boundary line shall be opened up and the pro-

portions in which the corporations of the townships shall respectively bear the cost of opening up, making, maintaining and keeping in repair the boundary line, and in either case may direct that the statute labour or part of it shall be applied by each of the corporations for such purposes.

Appointment  
of commis-  
sioners to  
enforce  
order

(4) The determination and direction of the council of the county shall be embodied in an order or resolution, and the council shall appoint one or more commissioners to execute and enforce any direction so made.

Townships  
to have  
opportunity  
of doing  
the work

(5) If the councils of the townships intimate to the council of the county or to the commissioners their intention to proceed with the work directed to be done and to conform to the direction of the council of the county, the commissioners shall delay proceeding to carry out the work directed to be done for a reasonable time to enable the township councils to do it, but, if the work is not proceeded with with such dispatch as the commissioners deem necessary, they shall themselves complete the work.

Apportion-  
ment of and  
collection of  
cost of work  
of commis-  
sioners

(6) The cost of any work done by the commissioners shall be by them apportioned between the corporations of the townships in accordance with the order or resolution of the council of the county, and the commissioners shall certify to the treasurer of the county the amount payable by each of such corporations, and the treasurer shall retain the same out of any money in his hands belonging to the corporation, but, if there is not in the hands of the treasurer any such money or not sufficient to pay the amount payable by the corporation, the amount payable or the amount of the deficiency, as the case may be, shall be added to the county rate payable by the corporation in default.

County  
boundaries  
not affected

(7) This section does not apply to a township boundary line that is also a county boundary line. R.S.O. 1950, c. 243, s. 465.

Determina-  
tion by  
Municipal  
Board of  
disputes re  
deviation  
of county  
boundary  
lines

**456.** Where the councils of the townships having joint jurisdiction over a county boundary line are unable to agree as to,

- (a) the necessity for a deviation of the road from the boundary line; or
- (b) the location of the deviation; or
- (c) the use of an existing highway in lieu of a deviation; or
- (d) the proportions in which the cost of opening, making and maintaining the deviation or the existing highway to be used in lieu of a deviation is to be borne,



any of the councils may apply to the Municipal Board to determine the matter in dispute, and the Board or any member of it, after notice to the corporations interested and hearing such of them as desire to be heard, shall determine the matter in dispute and may make such order as may be deemed just, and such order is final and not subject to appeal. R.S.O. 1950, c. 243, s. 466.

**457.**—(1) The Ontario Motor League may, at its own expense and subject to such regulations as the council of the municipality may prescribe, erect and maintain guide posts at road intersections and mile posts on the highways to indicate distances and danger signals at hills that may be deemed to be dangerous or unsafe for travellers.

Power of Ontario Motor League to erect guide and mile posts, etc.

(2) Every such guide post, mile post and danger signal shall be so placed as not to obstruct the highway or to endanger the safety of travellers, and nothing shall appear on or be affixed or attached to it but a notice indicating the purpose that the guide post, mile post or danger signal is designed to serve. R.S.O. 1950, c. 243, s. 467 (1, 2).

How same to be erected

(3) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of \$5. R.S.O. 1950, c. 243, ss. 467 (3), 493.

Offence

(4) No person shall cut, throw down, injure or deface any such guide post, mile post or danger signal, and for every contravention of this subsection the person offending is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1950, c. 243, s. 467 (4).

Defacing posts erected

**458.** The Canadian Wheelman's Association of the Dominion of Canada has the like power as is conferred on the Ontario Motor League by section 457, and all the provisions of that section apply to guide posts, mile posts and danger signals erected or maintained by the Association; but, where either the League or the Association has exercised the powers conferred upon it upon any part of a highway, the other does not have the right to exercise its powers thereon. R.S.O. 1950, c. 243, s. 468.

Powers of C.W.A. as to erection of guide posts, etc.

**459.**—(1) The council of every municipality may pass by-laws,

Establishing, widening, stopping up, etc., highways, laying out boulevards, etc.

- (a) for establishing and laying out highways;
- (b) for widening, altering or diverting any highway or part of a highway;
- (c) for stopping up any highway or part of a highway;

- (d) for leasing or selling the soil and freehold of a stopped-up highway or part of a highway;
- (e) for setting apart and laying out such parts as may be deemed expedient of any highway for the purpose of carriage ways, boulevards and sidewalks, and for beautifying the same, and making regulations for their protection;
- (f) for permitting subways for cattle under and bridges for cattle over any highway;
- (g) for acquiring land or an interest in land at street intersections for the purpose of rounding corners.

Exceptions  
as to exercise  
of power

(2) Nothing in subsection 1 authorizes a council to interfere with any public road or bridge vested in the Crown in right of Ontario or in any public department, board or officer of Ontario. R.S.O. 1950, c. 243, s. 469 (1, 2).

Approval of  
Lieutenant  
Governor to  
by-law

(3) A by-law passed under clause *b* or *c* of subsection 1 in respect of an allowance for road reserved in the original survey.

- (a) along the bank of any river, stream or other water;
- (b) along or on the shore of any lake or other water;
- (c) leading to the bank of any river or stream; or
- (d) leading to the shore of any lake or other water,

does not take effect until it has been approved by the Lieutenant Governor in Council, and, where the by-law also requires approval of a judge or confirmation by a county council under subsection 6, it shall not be submitted to the Lieutenant Governor in Council until such approval or confirmation has been obtained. 1955, c. 48, s. 45.

Approval of  
Governor  
General  
to by-law

(4) The powers conferred by subsection 1 shall not be exercised without the consent of the Governor General in Council in respect of,

- (a) any street, lane or thoroughfare made or laid out by Her Majesty's Ordinance or the Principal Secretary of State in whom the Ordinance estates became vested under the Act of the late Province of Canada passed in the 19th year of the reign of Her late Majesty Queen Victoria, Chapter 45, or under Chapter 24 of the Consolidated Statutes of Canada, or made or laid out by the Government of Canada;

1856, c. 45  
(Can.)  
C.S.C. 1859,  
c. 24

- (b) any land owned by the Crown in right of Canada;

- (c) any bridge, wharf, dock, quay or other work vested in the Crown in right of Canada,

or so as to interfere with any land reserved for military purposes or with the integrity of the public defences, and the consent of the Governor General in Council shall be recited in the by-law, but the by-law shall not be quashed or open to question because of the omission to recite it if the consent has been in fact given.

(5) The powers conferred by clause *c* of subsection 1 shall not be exercised by the council of a county in respect of a highway or part of a highway within the limits of a city, town or village in or adjoining the county. R.S.O. 1950, c. 243, s. 469 (4, 5). Limitation of power of county

(6) A by-law of the council of a township passed under clause *c* of subsection 1, Approval of judge or county council to township by-law

- (a) in the case of a township in unorganized territory, does not have any force until approved by a judge of the district court of the district in which the township is situated;

- (b) in the case of a township separated for municipal purposes from the county in which it is situated, does not have any force until approved by a judge of the county court of the county in which the township is situated; and

- (c) in the case of other townships, does not have any force until confirmed by a by-law of the council of the county in which the township is situated passed at an ordinary meeting of the council held not sooner than three months or later than one year after the passing of the by-law by the council of the township. 1954, c. 56, s. 30.

(7) The council may in any by-law closing a highway provide that the same shall only be closed for vehicular traffic and not for pedestrian traffic or *vice versa*, and may provide for the erection of barricades to enforce the due observance thereof. R.S.O. 1950, c. 243, s. 469 (7). Closing of street to vehicular traffic only

[NOTE.—See *The Highway Improvement Act* (R.S.O. 1960, c. 171) as to consent of Lieutenant Governor to closing of highway connecting with the King's Highway.]

**460.**—(1) A by-law shall not be passed for stopping up, altering or diverting any highway or part of a highway if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from his land or place of residence Right of ingress and egress not to be taken away by closing road



over such highway or part of it unless such person consents to the passing of the by-law or unless in addition to making compensation to such person, as provided by this Act, another convenient road or way of access to his land or place of residence is provided. R.S.O. 1950, c. 243, s. 470 (1); 1956, c. 50, s. 18.

By-law,  
when to  
take effect

(2) The by-law does not take effect until the sufficiency of such road or way of access has been agreed upon or until, if not agreed upon, its sufficiency has been determined by arbitration as hereinafter mentioned.

Arbitration  
to determine  
sufficiency  
of road

(3) If such person disputes the sufficiency of the road or way of access provided, the sufficiency of it shall be determined by arbitration under this Act and, if the amount of compensation is also not agreed upon, both matters shall be determined by one and the same arbitration.

By-law void  
if road in-  
sufficient

(4) If the arbitrator determines that the road or way of access provided is insufficient, he may by his award determine what road or way of access should be provided and, in that case, unless such last-mentioned road or way of access is provided, the by-law is void and the corporation shall pay the costs of the arbitration and award. R.S.O. 1950, c. 243, s. 470 (2-4).

Possession  
of unopened  
road allow-  
ance

**461.**—(1) A person in possession of and having enclosed with a lawful fence that part of an original allowance for road upon which his land abuts that has not been opened for public use by reason of another road being used in lieu of it or of another road parallel or near to it having been established by law in lieu of it shall, as against every person except the corporation the council of which has jurisdiction over the allowance for road, be deemed to be legally possessed of such part until a by-law has been passed by such council for opening it.

Notice of  
by-law to  
be given

(2) No such by-law shall be passed until notice in writing of the intention to pass it has been given to the person in possession, at least eight days before the meeting of the council at which the by-law is to be taken into consideration. R.S.O. 1950, c. 243, s. 471.

Publication  
of by-law,  
etc.

**462.**—(1) Before passing a by-law for stopping up, altering, widening, diverting, selling or leasing a highway or for establishing or laying out a highway,

(a) notice of the proposed by-law shall be published at least once a week for four successive weeks, and in the case of a village or township shall be posted up for at least one month in six of the most public places in the immediate neighbourhood of the highway or proposed highway; and

- (b) the council shall hear in person or by his counsel, solicitor or agent any person who claims that his land will be prejudicially affected by the by-law and who applies to be heard.

(2) The clerk shall give the notices upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing. R.S.O. 1950, c. 243, s. 472.

**463.** Where the owners of and other persons interested in the land required to be taken for the highway consent in writing to the passing of the by-law for establishing and laying it out, or where such land has been acquired by the corporation, section 462 does not apply to the by-law. R.S.O. 1950, c. 243, s. 473.

**464.**—(1) Where an allowance for a sideline road between lots in a double front concession in a township was so run in the original survey that the line in the front half of the concession does not meet the line in the rear half, the council of the township may open and lay out a road to connect the ends of such lines where they do not so meet.

(2) The by-law shall provide that the road shall be opened and laid out in accordance with a survey to be made by an Ontario land surveyor named in the by-law.

(3) A judge of the county or district court of the county or district in which the township is situate, on the application of any person over whose land the connecting road will pass, who objects to the surveyor appointed by the by-law, may appoint another Ontario land surveyor in the place of the one so appointed.

(4) The application shall be made within one month after the service of the copy of the by-law on the applicant and at least five days notice of the time when and the place where it will be heard by the judge shall be served upon every other person over whose land the connecting road will pass and upon the clerk of the municipality.

(5) The surveyor appointed by the by-law or, if another is appointed by the judge in his place, the surveyor so appointed shall determine the compensation to be paid to the persons whose lands are taken for the connecting road, and the amount so determined shall be paid to them by the corporation of the township.

(6) The determination of the surveyor as to the compensation is final. R.S.O. 1950, c. 243, s. 474.

Mistakes  
in opening  
road allow-  
ances

**465.**—(1) Where the council of a municipality desiring to open an original allowance for road has by mistake opened a road that was intended to be, but is not wholly or partly upon such allowance, the land occupied by the road as so opened shall be deemed to have been expropriated under a by-law of the corporation, and no person on whose land such road or any part of it was opened is entitled to bring or maintain an action for or in respect of what was done or to recover possession of his land, but he is entitled to compensation under and in accordance with the provisions of this Act as for land expropriated under the powers conferred by this Act.

When right  
to compen-  
sation barred

(2) The right to compensation is forever barred if the compensation is not claimed within one year after the land was first taken possession of by the corporation. R.S.O. 1950, c. 243, s. 475.

Sanction of  
council to  
laying out  
of highways

**466.**—(1) No highway shall be laid out in any municipality without the sanction of the council of the municipality.

Width of  
highways

(2) No highway less than 66 feet in width or, except in a city or town, more than 100 feet in width shall be laid out by the council of the municipality without the approval of the Municipal Board or by any owner of land without the approval of the council of the municipality and of the Municipal Board.

Proviso  
R.S.O. 1960,  
c. 296

(3) Nothing in this section affects *The Planning Act*. R.S.O. 1950, c. 243, s. 476 (1-3).

Exception  
as to lane

(4) Subsection 2 does not apply and has never applied to any lane laid out in the rear of lands abutting on another highway or to any outlet connecting such a lane with a highway. R.S.O. 1950, c. 243, s. 476 (5).

Agreement  
for removal  
of obstruc-  
tions to view  
of drivers

**467.**—(1) The council of any municipality may enter into an agreement with the owner of land adjacent to the intersection of any two highways under the jurisdiction of the council for the removal or alteration of any tree, shrub, bush, hedge, fence, signboard or other object on the land that may obstruct the view of drivers of vehicles or pedestrians on the highway when approaching the intersection.

Application  
to judge  
for order

(2) If the council is unable to make an agreement as provided in subsection 1, it may apply to the judge of the county court of the county in which the land is situate for an order compelling the removal or alteration of any object in respect of which the application is made, upon such notice to the owner of the land affected as the judge may direct, and the judge may make an order, subject to the payment of such compensation or upon such other conditions as he may fix, compelling the owner of the land to remove or alter the object, or author-



izing the municipal corporation to remove or alter the same and for that purpose to enter upon the land, and *The Judges' Orders Enforcement Act* applies to such an order. R.S.O. 1960, c. 196  
 1950, c. 243, s. 477.

**468.—(1) By-laws may be passed:**

1. By the council of every municipality for granting aid to the corporation of any immediately adjoining municipality towards opening, widening, maintaining or improving any highway within such municipality, or constructing, maintaining or improving any bridge therein. Granting aid for opening or improving, etc., highways
2. By the council of every local municipality for granting aid to the corporation of the county in which the municipality is situate towards opening and making any new road on the boundary of the municipality or constructing any new bridge on such boundary line. By local municipalities to county
3. By the councils of cities, towns and villages for granting aid to the corporation of a township in the county in which the city, town or village is territorially situate or in an adjoining county towards opening, widening, maintaining or improving any highway in such township that constitutes or is to constitute or forms or is to form part of a highway leading to such city, town or village, or towards constructing, maintaining or improving any bridge forming or that is to form part of such highway. By cities, towns and villages to township
4. By the councils of counties for granting aid towards making, improving or maintaining any county or township boundary line. By counties for boundary lines
5. By the councils of counties for granting aid to the corporation of any town, village or township towards, By counties to towns, villages and townships
  - (a) opening any new highway or constructing any new bridge in the municipality;
  - (b) opening, widening, maintaining or otherwise improving any highway leading from or passing through the municipality into a county road, or constructing, maintaining or improving any bridge forming or that is to form part of such highway.
6. By the councils of townships, By townships to county
  - (a) for granting aid to the corporation of a county adjoining that in which the township is situate towards opening, widening, maintaining or improving any highway lying between the township and another municipality in the adjoining county, or towards constructing, maintaining or improving any bridge on such highway;

- (b) for granting aid for the like purposes to the corporation of the county in which the township is situate in respect of any highway or bridge within the township assumed as a county road or bridge or agreed to be so assumed on condition that such aid shall be granted. R.S.O. 1950, c. 243, s. 478 (1), pars. 1-6.

By municipalities in unorganized territory

7. By the council of a municipality in unorganized territory for opening, widening, maintaining or improving any highway or constructing, maintaining or improving any bridge in an adjoining municipality or in a municipality situate in such adjoining municipality or in an adjoining unorganized township or in adjoining unsurveyed territory or for granting aid to any adjoining municipality or to any municipality situate in such adjoining municipality for any of such purposes. R.S.O. 1950, c. 243, s. 478 (1), par. 7; 1954, c. 56, s. 32.

Character of aid

(2) The aid may be granted by way of loan or otherwise. R.S.O. 1950, c. 243, s. 478 (2).

**469. By-laws may be passed by the council of every municipality:**

Boulevards

1. For setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense boulevards on that part of the highway that may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic.

Regulations

2. For regulating the construction, maintenance and protection of such boulevards.

Areas and openings under highways

3. For permitting the owners of land to make, maintain and use areas under and openings to them in the highways and sidewalks and for permitting the owners of land abutting on one side of a highway to construct, maintain and use a bridge or other structure over, across or under the highway for the purpose of access to land owned by such owners on the other side of the highway, and for permitting the owners of land to maintain and use signs and other advertising devices that project over the sidewalks, and canopies that project over the sidewalks, for prescribing the terms and conditions upon which the same shall be made, constructed, maintained and used, and for making such annual or other charge for the privilege conferred by the by-law as the council may deem reasonable, and for providing that upon the termination of such privilege the highway shall be restored to its former condition at the expense of the owner of the land to which the privilege is appurtenant by filling in the area or opening,

removing the bridge, structure, sign or other advertising device, or canopy, or otherwise as may be required by the by-law.

- (a) Such annual or other charge and any expense incurred <sup>Annual charge for</sup> by the corporation in restoring the highway to its former condition is payable and payment of it may be enforced in like manner as taxes are payable and payment of them may be enforced.
- (b) The corporation is liable for any want of repair of <sup>Liability of corporation for damages</sup> the highway that may result from the construction, maintenance and use of any such area or opening, bridge or structure, sign or advertising device, or canopy, but is entitled to the remedy over provided for by section 450 against the person by whose act or omission the want of repair is caused.

4. For setting apart so much of any highway as the council <sup>Bicycle and foot paths</sup> may deem necessary for the purposes of a bicycle path or of a foot path.

- (a) Any person who rides or drives a horse or other beast of burden or a motor vehicle, wagon, carriage or cart over or along any such path is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20. R.S.O. 1950, c. 243, s. 479, pars. 1-4.

5. For preserving or selling the timber or trees on any <sup>Timber on road allowances</sup> original allowance for road, subject however to the rights, if any, of a Crown timber licensee under *The Crown Timber Act* <sup>R.S.O. 1960, c. 83</sup> and, in the case of an unopened original allowance for road, subject also to the approval of the Minister of Lands and Forests. R.S.O. 1950, c. 243, s. 479, par. 5; 1954, c. 56, s. 33.

6. For making regulations as to pits, precipices and deep <sup>Regulations re pits, precipices, etc.</sup> waters and other places dangerous to travellers within the municipality or within any defined area or areas thereof. R.S.O. 1950, c. 243, s. 479, par. 6; 1957, c. 76, s. 31.

7. For acquiring either alone or jointly with the corporation <sup>Stone and gravel pits</sup> of another municipality such land in either municipality as may be deemed necessary for procuring therefrom stone or gravel for use in making, maintaining or repairing the highways under the jurisdiction of the council or councils, or for any other purpose.

8. For entering upon and searching for and taking from <sup>Power to enter upon land to take timber, gravel, etc.</sup> land within the municipality, or with the consent of the council of an adjacent municipality expressed by by-law or resolution from land in such municipality, such timber, gravel, stone or other material as may be necessary for constructing,



maintaining and keeping in repair the highways and bridges, or for any other purpose.

Compensation, how determined

- (a) The compensation to be paid to the owners of and other persons interested in the land for the timber, gravel, stone or other material shall be agreed upon or determined by arbitration before the power to take it is exercised.

Idem, how computed

- (b) The compensation may be a lump sum for the privilege of taking as much timber, stone, gravel or other material as may be required, or a sum determined by the quantity taken, or a price by the cubic yard or otherwise for what may be taken, as may be agreed on or be determined by the arbitrator.

Right to pass over lands

- (c) Where it is necessary in the exercise of any of the powers conferred by the by-law to pass through or over the land of another person, the corporation may do so as occasion may require, doing no unnecessary damage, but, before doing so, the compensation to be paid for the exercise of such power shall be agreed upon or determined by arbitration. R.S.O. 1950, c. 243, s. 479, pars. 7, 8.

Purchasing or renting machinery

**470.** The council of every municipality may pass by-laws for purchasing conditionally, or otherwise, or for renting for a term of years or otherwise, road-making machinery, snow-removal equipment and appliances for the purposes of the corporation, and for borrowing money for the purpose of paying the purchase price for any period not exceeding five years and for issuing debentures for the money so borrowed, or for issuing to the vendor debentures payable within that period in payment of the purchase money. R.S.O. 1950, c. 243, s. 480 (1); 1956, c. 50, s. 19.

Taking stock in bridge company

**471.** The council of every municipality may pass by-laws for subscribing for any number of shares in the capital stock of or for lending money to or guaranteeing the payment of any money borrowed by a bridge company incorporated for the purpose of erecting and maintaining any bridge within, or partly within, the municipality or between it and another municipality. R.S.O. 1950, c. 243, s. 481.

• Joint works with other municipalities

**472.** The council of a local municipality may pass by-laws for entering into and performing any agreement with any other council in the same county for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council. R.S.O. 1950, c. 243, s. 482.

**473.**—(1) In this section, “tree” includes a growing tree <sup>Interpre-</sup> or shrub planted or left growing on either side of a highway <sup>tation</sup> for the purpose of shade or ornament.

(2) Any person may plant trees on a highway with the <sup>Planting</sup> approval of the council of the municipality expressed by <sup>trees on</sup> resolution. <sup>highways</sup>

(3) Every tree upon a highway shall be appurtenant to the <sup>Land to</sup> land adjacent to the highway and nearest thereto. <sup>which appur-</sup> R.S.O. <sup>tenant</sup> 1950, c. 243, s. 483 (1-3).

(4) The council of every municipality may pass by-laws, <sup>By-laws</sup>

(a) authorizing and regulating the planting of shade or ornamental trees upon any highway;

(b) granting money to be expended for such purpose;

(c) granting money by way of bonus not exceeding 25 cents each for planting on any highway or within six feet thereof, ash, basswood, beech, birch, butternut, cedar, cherry, chestnut, elm, hickory, maple, oak, pine, sassafras, spruce, walnut or whitewood trees, such bonus to be payable at the expiration of three years from date of planting if the trees are then alive, healthy and in good form;

(d) for preserving trees;

(e) for prohibiting the injuring or destroying of trees;

(f) for causing any tree planted upon a highway to be removed when deemed necessary in the public interest, but the owner of the trees shall be given ten days notice of the intention of the council to remove such tree and be recompensed for his trouble in planting and protecting it and, if he so desires is entitled to remove the tree himself, but is not entitled to any further or other compensation;

(g) prohibiting the planting of any species of tree that the council deem unsuited for that purpose and for the removal without notice of such trees growing on a highway or planted thereon contrary to any such by-law;

(h) authorizing any officer or committee of the council to supervise the planting of trees upon the highways and the trimming of trees planted upon a highway or upon private property where the branches extend over a highway, or to remove decayed or dangerous trees or trees that have by by-law of the municipality been directed to be removed;

- (i) prohibiting the attaching of any object or thing to a tree located on any highway or public place, except with the consent of an officer of the municipality named in the by-law, notwithstanding that such attachment would not injure or destroy the tree. R.S.O. 1950, c. 243, s. 483 (4); 1960, c. 69, s. 24.

Service of  
notices

- (5) Any notice required by subsection 4 may be given by leaving it with a grown-up person residing on the land or, if the land is unoccupied, by posting it in a conspicuous place on the land.

Consent  
required to  
removal, etc.

- (6) Except with the authority of the council or a committee or officer thereof appointed as aforesaid, no person shall remove or cut down or injure any tree growing upon a highway. R.S.O. 1950, c. 243, s. 483 (5, 6).

Prohibition  
as to tying  
animals, etc.

- (7) Any person who ties or fastens any animal to or injures or destroys a tree growing upon a highway or who suffers or permits any animal in his charge to injure or destroy such tree or who cuts down or removes any such tree contrary to this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$25, one-half of which shall go to the person laying the information and the other half to the corporation of the municipality within which the tree was growing. R.S.O. 1950, c. 243, ss. 483 (7), 493.

Expenditure  
for works in  
any county  
of a union

- 474.**—(1) The councils of united counties may pass by-laws for raising or borrowing money to be expended exclusively in any one of the counties forming the union.

What mem-  
bers to vote  
on by-law

- (2) None of the members of the council but those representing local municipalities in the county in which the expenditure is to be made shall vote upon the by-law except, in the case of an equality of votes, when the warden has the casting vote.

What prop-  
erty assess-  
able for  
rates

- (3) The sums to be raised by taxation for the purpose of making any such expenditure and the sums required to be raised to pay the principal and interest of any money borrowed for that purpose shall be assessed and levied only upon the rateable property in the county in which the expenditure is to be made.

Debentures,  
issue of

- (4) Every debenture issued under the authority of the by-law shall be issued as the debenture of the corporation of the united counties, but it shall be stated in the body of it that the payment of the principal and interest is to be provided for by a special rate upon the rateable property in the county in which the expenditure is to be made and upon that property only. R.S.O. 1950, c. 243, s. 484.



**475.** The council of a township may pass by-laws for granting a prize not exceeding \$10 for the best kept roadside, farm front and farm house surroundings, in each public school section in the township, and for prescribing the conditions upon which such prizes may be competed for and awarded. R.S.O. 1950, c. 243, s. 485.

Prizes for best kept roadside, etc.

**476. The councils of all municipalities may pass by-laws:**

1. For prohibiting or regulating the obstructing, encumbering, injuring or fouling of highways or bridges.

Obstruction of highways

2. For requiring doorsteps, porches or other erections or things projecting into or over any highway to be removed by the owner or occupant of the land in connection with which they exist.

Removal of doorsteps, etc.

3. For prohibiting the building or maintaining of fences on any highway or the placing or depositing of firewood or any other thing calculated to obstruct it or to obstruct or interfere with public travel on it, on any highway or bridge, and for requiring the removal of them by the person by whom the same are or were so built, maintained, placed or deposited.

Prohibiting building or maintaining fences on highways

(a) Unless the by-law otherwise provides, a by-law passed under the authority of this paragraph does not extend or apply to a worm fence that is not for more than half its width upon the highway, or to materials to be used for the construction or repair of a highway or bridge, if they do not interfere with the use of it for public travel.

4. For prohibiting the throwing, placing or depositing of dirt, filth, glass, handbills, paper or other rubbish or refuse, or the carcass of any animal, on any highway or bridge.

Prohibiting throwing dirt, glass, etc., on highways

5. For prohibiting the obstruction of ditches or culverts upon highways.

Ditches and culverts

6. To provide for placing, regulating and maintaining upon the public highways traffic signs for the purpose of guiding and directing traffic; provided that no by-law shall authorize the placing of such signs upon that portion of any highway that lies between the double tracks of a street railway constructed upon such highway known as the devil strip. R.S.O. 1950, c. 243, s. 486, pars. 1-6.

Traffic signs

7. For erecting, maintaining and operating on any highway or portion of a highway automatic or other mechanical meters or devices, with the necessary standards for the same, for the purpose of controlling and regulating the parking of any vehicle on the highway and measuring and recording the duration of such parking, for requiring drivers of every vehicle

Installation of meters for controlling parking of vehicles on highways, and charging of fees for parking

parked on such highways to make use of such meters or devices, and to pay for parking such vehicle on the highway a fee according to the amount or scale prescribed by the by-law and as measured by the meter or device, and for prohibiting parking of vehicles on such highway or portion of a highway unless such meter or device is made use of and such fee is paid, and for limiting the right of parking of vehicles on such highway to such drivers as do make use of such meters or devices and pay such fees.

No action  
except for  
negligence

- (a) No municipality or municipal parking authority, except in case of negligence, is liable for personal injury or for damage by reason of the erection, maintenance or operation of such meters or devices with the necessary standards for the same under the authority of a by-law passed under this paragraph, or by reason of a vehicle being parked on the highway under the terms of such by-law. R.S.O. 1950, c. 243, s. 486, par. 7; 1955, c. 48, s. 46.

Selling  
original road  
allowance

**477.**—(1) Where a highway for the site of which compensation was paid is established and laid out in place of the whole or any part of an original allowance for road, or where the whole or any part of a highway is legally stopped up, if the council determines to sell such original allowance or such stopped-up highway, the price at which it is to be sold shall be fixed by the council, and the owner of the land that abuts on it has the right to purchase the soil and freehold of it at that price.

Prior right  
of owners  
of abutting  
lands

(2) Where there are more owners than one, each has the right to purchase that part of it upon which his land abuts to the middle line of the stopped-up highway.

Sale by  
council to  
other persons

(3) If the owner does not exercise his right to purchase within such period as may be fixed by the by-law or by a subsequent by-law, the council may sell the part that he has the right to purchase to any other person at the same or a greater price. R.S.O. 1950, c. 243, s. 487.

Where owner  
of land taken  
for highway  
entitled to  
original road  
allowance

**478.**—(1) Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or his successor in title, if he owns the land that abuts on such allowance, is entitled to the soil and freehold of it, and if it has not already been conveyed to him or his predecessor in title, to a conveyance of it.

When more  
than one  
owner

(2) Where the land that so abuts is owned by more persons than one, each is entitled to and to a conveyance of the soil

and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

(3) If the owner of the land appropriated for the highway or his successor in title does not own any land abutting on the allowance and the allowance is sold by the council, he is entitled to a part of the purchase money that bears the same proportion to the whole purchase money as the value of the part of the site of the new highway that belonged to him bears to the value of the whole site. R.S.O. 1950, c. 243, s. 488.

Where owner of land taken owns no land abutting on allowance

**479.**—(1) A person in possession of the whole or any part of an original allowance for road in place of which he or any of his predecessors in title has laid out and opened a new road or street without receiving compensation for the site of it is entitled to the soil and freehold of such allowance or part of it and, if it has not already been conveyed to him or to his predecessor in title, to a conveyance of it.

When person in possession entitled to original allowance

(2) Where there are more persons than one in such possession, each is entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Where several persons in possession

(3) If the road has not been adopted by by-law of the council or otherwise assumed for public use by the corporation, this section does not apply until the new road or street is adopted by by-law of the council, and the council by by-law declares that the original allowance is, in its opinion, useless to the public. R.S.O. 1950, c. 243, s. 489.

Requirement as to assumption of road by corporation

**480.** The Lieutenant Governor in Council may stop up, alter, widen or divert any highway or part of a highway in a provisional judicial district not being within an organized municipality, and may sell or lease the soil and freehold of any such highway or part of a highway that he has stopped up or that, in consequence of an alteration or diversion of it, no longer forms part of the highway as altered or diverted. R.S.O. 1950, c. 243, s. 490.

Stopping up highways in unorganized territory

**481.**—(1) The council of a township in unorganized territory surveyed without road allowances, but in which 5 per cent of the area is reserved for highways, may pass by-laws for opening and making highways where necessary and the provisions of this Act as to compensation for lands taken or injuriously affected by the exercise of the powers conferred by this section do not apply.

Opening up highways where 5 per cent reserved

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as provided in subsection 1, the corporation shall cause a plan thereof, so

Filing plan of roads in Department of Lands and Forests



far as it affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the plan in the Department of Lands and Forests. R.S.O. 1950, c. 243, s. 491.

## PART XXI

### PENALTIES AND ENFORCEMENT OF BY-LAWS

Power to  
impose  
fines

**482.**—(1) By-laws may be passed by the councils of all municipalities and by boards of commissioners of police for imposing fines of not more than \$300, exclusive of costs, upon every person who contravenes any by-law of the council or of the board passed under the authority of this Act. R.S.O. 1950, c. 243, s. 492 (1); 1955, c. 48, s. 47.

Recovery  
R.S.O. 1960,  
c. 387

(2) Every such fine is recoverable under *The Summary Convictions Act*, all the provisions of which apply, except that the imprisonment may be for a term of not more than six months for the breach of a by-law of the council or the board of commissioners of police of a city, and in all other cases for a term of not more than twenty-one days. R.S.O. 1950, c. 243, s. 492 (2).

Application  
of fines

**483.** Where a prosecution is brought by a peace officer or employee of the corporation or of the local board of health, the whole of the fine belongs to the corporation, and in other cases belongs one-half to the corporation and the other one-half to the prosecutor. R.S.O. 1950, c. 243, s. 494.

Convictions  
not invali-  
dated for  
want of proof  
of by-law

**484.**—(1) A conviction for a contravention of any by-law shall not be quashed for want of proof of the by-law before the convicting justice, but the court or a judge hearing the motion to quash may dispense with such proof or may permit the by-law to be proved by affidavit or in such other manner as may be deemed proper.

Requirement  
as to proof

(2) Nothing in this section relieves a prosecutor from the duty of proving the by-law or entitles the justice to dispense with such proof. R.S.O. 1950, c. 243, s. 495.

Enforcing  
performance  
of things re-  
quired to be  
done under  
by-laws

**485.** Where a council has authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by the same or by another by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes, or the council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding ten years and may, with-

out obtaining the assent of the electors, borrow money to cover such expense by the issue of debentures of the corporation payable in not more than ten years. R.S.O. 1950, c. 243, s. 496.

**486.** Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by action at the instance of a ratepayer or the corporation or local board. R.S.O. 1950, c. 243, s. 497.

Power to  
restrain  
by action

## PART XXII

### POLICE VILLAGES

#### FORMATION

**487.**—(1) Subject to the provisions and conditions herein-after mentioned, a locality may be erected into a police village by the council of the county in which it is situate or, if it comprises parts of two or more counties, by the council of the county in which the larger or largest part of the locality is situate.

Formation  
of police  
village

(2) Where a petition signed by a majority of the owners of the locality whose names are entered on the last revised assessment roll and by a sufficient number of the resident tenants of the locality whose names are entered on such roll to make up with such owners a majority of the whole number of owners and tenants whose names are so entered, praying for the erection of the locality into a police village, is presented to the council, the council, if the locality has a population of not less than 150 and an area of not more than 500 acres, may pass a by-law erecting the locality into a police village to take effect from a day to be named in the by-law, declaring the name the police village shall bear and its boundaries, fixing a time and place and naming the returning officer for holding the first election of trustees and fixing a time and place for the first meeting of trustees.

Petition of  
freeholders  
and tenants  
required

By-law  
erecting  
village and  
fixing date  
of first  
election, etc.

(3) Where a petition has been presented as provided by subsection 2 and is sufficiently signed, and the council of the county does not at its next meeting after the presentation of the petition pass a by-law erecting the police village, application may be made to the Municipal Board for an order erecting the locality described in the petition into a police village, and the Board upon being satisfied that the petition has been duly signed and presented to the council, and that the council has neglected to act, and that the locality contains a population of not less than 150 and has an area of not more

Power of  
Municipal  
Board to  
erect police  
village on  
failure of  
county

than 500 acres, and that the convenience of the inhabitants of the locality requires the erection of the police village, may make an order erecting the locality into a police village to take effect at a date to be named therein, declaring the name the police village shall bear and its boundaries, fixing the time and place and naming the returning officer for holding the first election of trustees and fixing the time and place for the first meeting of trustees. R.S.O. 1950, c. 243, s. 498.

Annexation  
of territory  
to police  
village

**488.**—(1) When the population of a police village exceeds 500, the council of the county by which it was established may, on petition of two-thirds of the owners and tenants of the police village, whose names are entered upon the last revised assessment roll, and of the majority of the resident owners and tenants of the territory proposed to be added, whose names are entered on the last revised assessment roll of the municipality, by by-law increase the area of the village by adding to it any adjoining land, but not exceeding twenty acres for each additional 100 of its population over 500.

Extension of  
limits of  
police village

(2) In the case of a police village having a population of less than 500 and an area of less than 500 acres, the council of the county, on petition as required by subsection 1, may by by-law increase the area of such village by adding to it any adjoining land so that the total area does not exceed 500 acres.

Land in  
other county

(3) Land in another county shall not be included in the increased area without the consent of the council of that county.

Power of  
Municipal  
Board to  
increase area  
on failure of  
county to act

(4) Where a petition has been presented to increase the area of a police village as provided in subsection 1 or 2 and is sufficiently signed and the council of the county does not at its next meeting after the presentation of the petition pass a by-law increasing the area of the police village, application may be made to the Municipal Board for an order increasing the area as requested in the petition and the Board, upon being satisfied that the petition has been duly signed and presented to the council and that the council has failed to act, may make an order increasing the area of the police village by adding to it any adjoining land as described in the petition, provided that the addition does not exceed the limitation as set out in subsections 1 and 2, respectively, or include land in another county if the consent of the council of that county has not been obtained. R.S.O. 1950, c. 243, s. 499.

Rules of  
procedure  
re ss. 487,  
488

**489.**—(1) The following rules apply in proceedings under sections 487 and 488.

1. Opposite the name of every petitioner in the petition there shall be shown, by reference to the number of



the lot, the land owned or occupied by him, and, where it is or forms part of a lot on a registered plan, the reference shall be to the number of the lot according to the plan; and the petition shall also show whether the petitioner is a freeholder or resident tenant.

2. A petition shall be deemed to be presented when it is lodged with the clerk and the sufficiency of the petition shall be determined by him and his certificate is conclusive in reference thereto.
3. The population of the locality shall be determined in case of dispute in such manner and by such means as the council determines.
4. The by-law shall not be passed before the expiration of one month after the presentation of the petition nor until further notice has been given of the meeting of the council at which it is intended to take it into consideration.
5. The notice shall be published at least once a week for two successive weeks during the two months next preceding the meeting and shall contain a description of the locality sufficiently full to indicate the land that is intended to be included in the proposed police village or to be added to the police village, as the case may be.
6. The clerk shall, forthwith after it is passed, transmit a certified copy of the by-law to the Provincial Secretary who shall cause notice of it to be published in *The Ontario Gazette*.

(2) After the expiration of three months from the publication of the notice of the by-law, and after the final disposition of any application to quash it made within that period if the application is unsuccessful, the by-law is not liable to be quashed on any ground and the police village thereby erected or the land thereby added, as the case may be, shall be deemed to have been duly erected or added in accordance with this Act. 1954, c. 56, s. 35.

#### FORMATION IN PROVISIONAL JUDICIAL DISTRICTS

**490.**—(1) A locality in an organized township or in two or more adjoining organized townships in a provisional judicial district may be erected into a police village by order of the Municipal Board.

Erection of police villages in provisional judicial districts

(2) The order may be made by the Board on receipt of a petition signed by a majority of the owners of the locality whose names are entered on the last revised assessment roll,

Order of Board on receipt of petition

and by a sufficient number of the resident tenants of the locality whose names are entered on such roll to make up with such owners a majority of the whole number of owners and tenants whose names are so entered.

Area of  
police  
villages in  
provisional  
judicial  
district

(3) No police village shall be erected under this section unless the locality described in the petition contains a population of not less than 150 and has an area of not more than 500 acres, but the Board may increase the area of such village in the like manner and under the same circumstances as set out in section 488 in the case of a police village situate in a county, and section 488 *mutatis mutandis* applies to proceedings under this section.

Provisions  
of Act re  
police  
villages in  
counties to  
apply

(4) All the provisions of this Act with regard to police villages in counties, so far as practicable, apply to a police village erected in a provisional judicial district. R.S.O. 1950, c. 243, s. 501.

#### TRUSTEES—ELECTION OF, ETC.

Trustees,  
number

**491.**—(1) There shall be three trustees for every police village.

General  
powers

(2) The trustees may contract and may sue and be sued and may pass by-laws by and in the name of the trustees of the police village of (*naming it*), but they are not personally liable upon their contracts. R.S.O. 1950, c. 243, s. 502.

Application  
of provisions  
as to  
election, etc.,  
of township  
councillors

**492.**—(1) Except where other provision is made in this Part and except as provided by subsections 2 to 7, the provisions of Parts II, III and IV, which are applicable to councillors of townships, apply *mutatis mutandis* to trustees of police villages.

Returning  
officer,  
nomination  
and polling

(2) The trustees shall appoint the returning officer and the place within the village for holding the nomination and for the polling of every election except the first. R.S.O. 1950, c. 243, s. 503 (1, 2).

Returning  
officer may  
vote

(3) Where the returning officer for the police village is not the clerk to whom the ballot box is to be returned, the returning officer is entitled to vote at the election if otherwise qualified. 1955, c. 48, s. 48.

Duty of clerk  
of township  
as to  
preparing  
voters' list

(4) The clerk of every township, a part of which is comprised in the village, not later than the day before that on which the polling is to take place, shall deliver to the returning officer of the village a copy of so much of the voters' list as relates to the village, attested by his declaration in writing as a true copy thereof.

(5) The return of the ballot box provided for by section 114 shall be made, Return of ballot box

- (a) where the village lies wholly within the township, to the clerk of that township;
- (b) where the village comprises parts of two or more townships in the same county, to the clerk of that county;
- (c) where the village comprises parts of two or more townships in different counties, to the clerk of the county in which the larger or largest part of the village is situate.

(6) The clerk to whom the ballot box is returned shall perform the duties that under sections 118 and 119 are to be performed by the clerk of a municipality. Duties of clerk on receiving ballot box

(7) No person is qualified to be elected a trustee unless he has the prescribed qualification in respect of land situate in the village and resides in or within two miles of the village. Qualification of trustee

(8) No person is qualified to vote at an election of trustees unless he has the prescribed qualification in the village. R.S.O. 1950, c. 243, s. 503 (3-7). Qualification of elector

(9) The first meeting of the trustees after the election shall be held at noon on the third Monday in January, or on some day thereafter at noon. R.S.O. 1950, c. 243, s. 503 (8); 1958, c. 64, s. 35. First meeting of trustees

**493.** If a vacancy occurs in the office of trustee, the remaining trustees or trustee shall appoint, by writing, a trustee to fill the vacancy. R.S.O. 1950, c. 243, s. 504. Vacancies, how filled

**494.** Any trustee may, subject to the approval of the Department, be paid such annual or other remuneration as the trustees may determine. R.S.O. 1950, c. 243, s. 505. Remuneration

**495.**—(1) The trustees shall, by writing, appoint one of their number to be inspecting trustee. Appointment of inspecting trustee

(2) Forthwith after the making of an appointment under subsection 1 or under section 493, the writing by which the appointment is made shall be filed with the clerk to whom the ballot box is to be returned as provided by subsection 5 of section 492. R.S.O. 1950, c. 243, s. 506. Requirement as to filing appointment of inspecting trustee, etc.

**496.**—(1) The trustees may at any time before the 1st day of June in any year by a requisition in writing require the council of the township in which the village is situate to cause Requisition on township council to raise sums to meet expenditure



to be levied, along with the other rates upon the rateable property in the village, such sum as the trustees deem necessary to defray the expenditure of the trustees for the current year.

Where village situate in more than one township

(2) Where the village comprises parts of two or more townships, the requisition shall be made on the council of each township for its proportion of the whole amount to be levied as ascertained in the manner provided by section 497.

Limit of rates

(3) The amount that the trustees may require to be so levied shall not in any year exceed a sum that a rate of  $1\frac{1}{2}$  cents in the dollar in the case of a police village in a township or townships in which statute labour has been abolished, and in other cases 1 cent in the dollar, on the rateable property in the village will provide, but this does not apply to a rate imposed or to be levied under section 502, 503 or 505. R.S.O. 1950, c. 243, s. 507.

Apportionment of rate among townships by assessors

**497.**—(1) Where a village comprises parts of two or more townships, the proportion of the amount required to be levied in each township shall be determined by the assessors of the townships.

Time for meeting of assessors

(2) Where a police village is hereafter erected, the assessors shall meet forthwith after the election for the purpose of determining and shall determine the proportion to be levied in each township.

Subsequent meetings

(3) Thereafter and in the case of all other police villages, the meeting shall be held in every second year.

How interval computed

(4) Except in the case of a newly erected police village, the two years shall be reckoned from the respective times when the last determination was made by the assessors.

Determination when assessors differ

(5) If the assessors differ, notice of the fact shall be forthwith given to the inspecting trustee, who shall act with the assessors in determining the proportions, and the decision of a majority is final and conclusive.

Notice of determination to be given to clerk of township

(6) The determination of the assessor or of the assessors and the inspecting trustee shall be forthwith communicated to the clerk of each of the townships.

Who to call meeting of assessors

(7) The meeting of the assessors shall be called by the assessor of the township in which is situate the larger or largest part of the rateable property of the village.

How long determination to govern

(8) The proportions as determined under this section govern until the next determination is to be made as provided by subsection 3. R.S.O. 1950, c. 243, s. 508.

**498.**—(1) The ratepayers of the village are entitled to such deduction from the township rate for general purposes payable by them as may be agreed upon between the trustees and the council of the township or, if the village comprises parts of two or more townships, by the councils of the respective townships or, if they are unable to agree, as shall be determined by a judge of the county court of the county in which the village is situated or, if the village is situated in two or more counties, of the county in which the assessment of the lands in the part of the village within the county is larger than the assessment of the lands in the part of the village within any other county. 1958, c. 64, s. 36.

Reduction  
of township  
rates for  
general  
purposes

(2) Either party may at any time apply to the judge for a modification of the terms of the agreement or order. R.S.O. 1950, c. 243, s. 509 (2).

Application  
to judge

**499.**—(1) The trustees are entitled to have the statute labour to be performed by the ratepayers of the village performed in the village.

Performance  
of statute  
labour

(2) If the trustees request the council of a township to commute the statute labour payable by the ratepayers in that part of the village that is situate in the township, the council shall provide for such commutation at such rate not exceeding \$3 per day, as may be requested by the trustees.

When coun-  
cil required  
to commute

(3) The amount of the commutation money shall be collected by the collector of the township and be placed to the credit of the trustees in the books of the treasurer of the township. R.S.O. 1950, c. 243, s. 510.

Collection  
and applica-  
tion of com-  
mutation  
money

**500.** The trustees may,

Powers of  
trustees

- (a) construct sidewalks and culverts and make, improve, drain and repair the highways in the village;
- (b) make contracts for the supply of light, heat, power, water or other public utilities by any person to the trustees for the purposes of the village or to the residents thereof;
- (c) enter into agreements for the supply of fire protection in the village by any person or corporation,

and do all things necessary for any of such purposes. R.S.O. 1950, c. 243, s. 511; 1958, c. 64, s. 37.

**501.**—(1) The treasurer of a township shall, if he has money of the corporation in hand and not otherwise appropriated, from time to time pay any order of the inspecting trustee or of any two of the trustees to the extent of,

Payment  
by township  
treasurer  
of orders  
of trustees

- (a) the sum required by section 496 to be levied by the council of the township and any sum that the council is required by the provisions of this Part to place to the credit of the trustees, although the same have not been then collected;
- (b) any money received for licence fees under any by-law of the trustees and for penalties for breaches of any such by-law or of sections 509, 510 and 511.

When order  
not to be  
given

(2) An order shall not be given under this section except for work actually performed or in payment pursuant to an executed contract. R.S.O. 1950, c. 243, s. 512.

Submission  
of money  
by-laws  
for certain  
purposes

**502.**—(1) Upon the application of the trustees, the council of a township in which a police village is situate shall submit for the assent of the electors of the village and, if it receives such assent, shall pass a by-law for borrowing money for,

- (a) the construction of sidewalks of cement, concrete, brick or other permanent material;
- (b) the purchase of fire engines and other appliances for fire protection and the supply of water therefor;
- (c) lighting the highways in the village;
- (d) supplying water, light, heat or power to the trustees for the purposes of the village or to the residents thereof;
- (e) acquiring land as a site for and erecting thereon a police village hall,

and for the issue of debentures of the corporation of the township for the money borrowed.

Special rate

(2) The special rate for the payment of the principal and interest shall be imposed upon the rateable property in the village.

Expenditure  
of money  
borrowed

(3) The money borrowed shall be retained in the hands of the treasurer of the township, and he shall pay out of it the orders of the inspecting trustee or of any two trustees in payment for work actually performed or of an executed contract with respect to the work or service for undertaking which the by-law was passed.

Undertaking  
of work

(4) When the by-law is passed, the trustees may undertake the work or service.

Control of  
fire engines,  
etc.

(5) The trustees have the control, care and management of the fire engine and appliances, and of the plant and appliances for the supply of water, light, heat or power, and of the police village hall.



(6) The trustees shall in each year before the striking of the rate by the council of the township furnish to the clerk a statement showing in detail the amount required to be levied upon the rateable property of the village for the current year for any such work or service that has been undertaken and for the care and maintenance of any fire engine and appliances purchased and for providing water therefor and for the maintenance and operation of the plant and appliances for the supply of light, heat or power and of the police village hall. R.S.O. 1950, c. 243, s. 513.

Statement to be furnished to clerk of township of amount required to be levied for certain purposes

**503.**—(1) The trustees may, with the consent of the council of the township in which the village is situate expressed by by-law or resolution, purchase fire engines and appliances for fire protection.

Purchase of fire engines and appliances with consent of township council

(2) Upon the purchase being made, the council of the township shall pass a by-law for raising the amount of the purchase money by the issue of debentures of the corporation of the township.

Township to pass debenture by-law

(3) The special rate imposed for the payment of the debentures shall be imposed upon the rateable property in the village.

Special rate

(4) The assent of the electors to the by-law is not necessary.

Assent of electors not required

(5) Subsections 5 and 6 of section 502 apply to a fire engine and appliances purchased under the authority of this section. R.S.O. 1950, c. 243, s. 514.

Application of subss. 5 and 6 of s. 502

**504.**—(1) The trustees may enter into agreement with any municipality for the use of the fire-fighting equipment, or any of it, of the village upon such terms and conditions and for such consideration based on cost as may be agreed upon, provided that notwithstanding any such agreement no liability accrues to the trustees for failing to supply the use of the fire-fighting equipment, or any of it. R.S.O. 1950, c. 243, s. 515; 1958, c. 64, s. 38.

Fire-protection agreements

(2) For the purposes of paragraph 4 of section 394, and for the purposes of the joint management and operation of fire departments under paragraph 5 of section 377, the trustees have all the powers of the council of a township, except the power to issue debentures. 1951, c. 53, s. 24.

Establishment of joint fire departments

#### ESTABLISHMENT OF PARKS, GARDENS, ETC.

**505.**—(1) Upon the petition of three-fourths of the electors qualified to vote upon money by-laws, the council of a township in which a police village is situate may pass a by-law for

Acquiring land for parks, exhibitions, etc.

acquiring land within or outside the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council may deem necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

Control and management of parks, etc.

(2) The trustees have the care, control and management of such highway, park, garden or place.

Powers of township council as to levying cost of parks, etc.

(3) The council of the township may provide,

(a) that the money required for the purpose mentioned in subsection 1 shall be levied upon the rateable property in the village; or

(b) that such money be raised by the issue of debentures of the corporation of the township.

Special rates

(4) The by-law shall impose the special rate for the payment of the debentures upon the rateable property in the village.

Statement as to amount required for maintenance of parks, etc.

(5) The trustees shall annually, before the striking of the rate for the year by the council of the township, furnish to the council a statement showing in detail the amount required to be levied for the current year for managing and maintaining the highway, park, garden or place for exhibitions, and the same shall be levied upon the land in the village.

Assent of electors not required

(6) The assent of the electors to a by-law passed under this section is not necessary. R.S.O. 1950, c. 243, s. 516.

Trustees to pass money by-laws where village situate in two or more townships

**506.**—(1) Where the village comprises parts of two or more townships, a by-law for the purposes mentioned in sections 502, 503 and 505 may be passed by the trustees, with the assent of the electors of the village qualified to vote on money by-laws, and for the purposes of such by-laws the trustees have all the powers of the council of a village, except the power to issue the debentures for the payment of the principal and interest.

Fixing proportion of debt to be borne by parts of village

(2) The by-law shall fix the proportion of the debt for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 496 is to be levied according to the then last determination of the assessors or of the assessors and inspecting trustee under section 497.

Certified copy for each township

(3) If the by-law receives the assent of the electors, the trustees, after passing it, shall serve a certified copy of it upon the clerk of each of the townships.

(4) The council of each township shall forthwith thereafter pass a by-law for raising the amount that is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it is not necessary that such by-law receive the assent of the electors or impose any rate for the payment of the debentures. By-law of township for raising money

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. R.S.O. 1950, c. 243, s. 517. Special rates

#### SPECIAL POWERS

**507.**—(1) The trustees have the like power to pass by-laws as is conferred on the council of a village with respect to, Special powers of trustees

- (a) driving or riding on roads and bridges, by paragraphs 51 and 52 of section 377;
- (b) public libraries, by paragraph 37 of section 377;
- (c) vehicles on sidewalks, by paragraph 54 of section 377;
- (d) pounds, by paragraphs 3 to 6 of subsection 1 of section 379;
- (e) removal of snow and ice, by paragraphs 54 and 55 of subsection 1 of section 379;
- (f) spitting on sidewalks, by paragraph 102 of subsection 1 of section 379;
- (g) horses and cattle upon sidewalks, by paragraph 101 of subsection 1 of section 379;
- (h) traffic on highways, etc., by paragraph 105 of subsection 1 of section 379;
- (i) tobacconists, by paragraph 2 of section 400;
- (j) bagatelle and billiard tables, by paragraph 1 of section 401;
- (k) exhibitions, places of amusement, etc., by paragraph 6 of section 401; and
- (l) trees on highways, by section 473.

(2) Where power is conferred to license, the licence fee shall be fixed by the trustees, and subsections 1, 3, 4, 5 and 6 of section 247 apply. Fixing amount of licence fee

(3) While a by-law passed under subsection 1 is in force, no by-law of the council of the township applicable to the same subject matter applies to or is in force in the village. When by-law of township not to apply to village



Length of  
sidewalk to  
be cleared  
by owner

(4) Where a by-law is passed under clause *e* of subsection 1, the maximum length or distance of sidewalks adjoining land occupied and used as farm lands for which the occupant or owner thereof may be required to clear away and remove snow and ice or be charged with the expense of such clearing away and removal shall be limited to 200 lineal feet notwithstanding that a greater length or distance of sidewalks may adjoin such land, and the clearing away and removal of snow and ice from such greater length or distance shall be undertaken by the trustees at the expense of the police village. R.S.O. 1950, c. 243, s. 518.

Authenti-  
cation of  
by-laws

**508.**—(1) Every by-law of the trustees shall be signed by at least two of them.

Certified  
copies to  
be sent to  
clerk of  
township

(2) A certified copy of every such by-law shall within seven days after it is passed be transmitted to the clerk of every township a part of which is comprised in the village. R.S.O. 1950, c. 243, s. 519.

#### PREVENTION OF FIRE

For pro-  
viding  
ladders, etc.

**509.**—(1) Every proprietor of a house more than one storey high shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a fine of \$1 for every omission, and a further fine of \$2 for every week for which such omission continues.

Fire buckets

(2) Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a fine of \$1 for each bucket not so provided.

Furnaces,  
etc.

(3) No person shall build any oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a fine of not more than \$2 for non-compliance.

Stove-pipes,  
etc.

(4) No person shall pass a stove pipe through a wooden or lathed partition or floor, unless there is a space of four inches between the pipe and the woodwork nearest thereto, and the pipe of every stove shall be inserted into a chimney, and there shall be at least ten inches in the clear between any stove and any lathed partition or woodwork, under a fine of \$2.

Light in  
stables, etc.

(5) No person shall enter a mill, barn, outhouse or stable with a lighted candle or lamp, unless it is well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a fine of \$1.

Chimneys

(6) No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or

in a stove of iron or other metal, properly secured, under a fine of \$1.

(7) No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, unless such fire is confined in a copper, iron or tin vessel, under a fine of \$1 for the first offence, and of \$2 for every subsequent offence. Securing fire carried through streets, etc.

(8) No person shall light a fire in a street, lane or public place under a fine of \$1. Lighting fires on streets

(9) No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling house, under a fine of \$1 for the first offence, and of \$5 for every week the hay, straw or fodder is suffered to remain there. Hay, straw, etc.

(10) No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a fine of \$1. Ashes, etc.

(11) No person shall place or deposit any quick or unslacked lime in contact with any wood of a house, outhouse or other building, under a fine of \$1, and a further fine of \$2 a day until the lime has been removed, or is secured, so as to prevent any danger from fire, to the satisfaction of the inspecting trustee. Lime

(12) No person shall erect a furnace for making charcoal of wood, under a fine of \$5. R.S.O. 1950, c. 243, s. 520. Charcoal furnaces

#### GUNPOWDER

**510.**—(1) No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a fine of \$5 for the first offence, and \$10 for every subsequent offence. Gunpowder, how to be kept

(2) No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a fine of \$10 for the first offence, and of \$20 for every subsequent offence. R.S.O. 1950, c. 243, s. 521. Not to be sold at night

#### NUISANCES

**511.** No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a fine of \$1, and a further fine of \$2 for every week for which he neglects or refuses to remove the same after being notified to do so by the inspecting trustee or by some other person authorized by him. R.S.O. 1950, c. 243, s. 522. Certain nuisances prohibited

## PROSECUTIONS

Trustees  
required to  
prosecute  
offenders

**512.**—(1) It is the duty of the trustees to see that the provisions of sections 509, 510 and 511 are not contravened, and that offenders are prosecuted for breaches of them.

Penalty for  
neglect to  
prosecute

(2) Any trustee who wilfully neglects or omits to prosecute an offender against any of the provisions of sections 509, 510 or 511, when requested so to do by a resident householder of the village who offers to adduce proof of the offence, and a trustee who wilfully neglects or omits to fulfil any other duty imposed on him by this Part, is liable to a fine of \$5. R.S.O. 1950, c. 243, s. 523.

Fines,  
how  
recoverable  
R.S.O. 1960,  
c. 387

**513.** The fines imposed by or under the authority of this Part are recoverable under *The Summary Convictions Act*, all of the provisions of which apply except that proceedings for the recovery of fines for contraventions of sections 509 to 512 shall be commenced within ten days after the commission of the offence or, if it is a continuing offence, within ten days after it has ceased and not afterwards. R.S.O. 1950, c. 243, s. 524.

## INCORPORATION OF TRUSTEES

Incorpo-  
ration of  
board of  
trustees

**514.**—(1) Where a police village has a population of not less than 500, the trustees may be created a body corporate and when incorporated the corporation shall be styled "The Board of Trustees of the Police Village of....." (*naming it*).

Procedure  
as to incorpo-  
ration of  
board

(2) The provisions of this Part as to the erection of a police village apply *mutatis mutandis* to an application for the incorporation of the trustees of a police village with the exception that the petition for incorporation shall be signed by not less than fifty resident owners of the village whose names are entered on the last revised assessment rolls of the municipality or municipalities of parts of which the village is composed. R.S.O. 1950, c. 243, s. 525.

Appointment  
of chairman  
and secre-  
tary

**515.**—(1) At its first meeting in each year, the board shall appoint one of its members to be the chairman, and shall also appoint a secretary.

Presiding  
officer

(2) The chairman shall, if present, preside at all meetings of the board and in his absence the board shall appoint one of its members to act as chairman during such absence. R.S.O. 1950, c. 243, s. 526.

Authenti-  
cation of  
by-laws

**516.**—(1) The by-laws of the board shall be signed by the chairman or acting chairman and shall be sealed with its seal.



(2) The provisions of this Act as to the proof of by-laws of a council apply to the by-laws of the board. R.S.O. 1950, c. 243, s. 527. Proof of by-laws

**517.** The expenses of repairing and maintaining all works, improvements and services undertaken by the board under the authority of this Act shall be borne by the board, and such expenses shall be levied and collected by the councils of the townships on the requisition in writing of the board, in like manner as the money to be levied as provided by section 496. R.S.O. 1950, c. 243, s. 528. Repair and maintenance of improvement and works

**518.**—(1) If the board makes default in maintaining and keeping in repair any such work, and the corporation of a township becomes liable under section 443 for damages suffered by or occasioned to any person in consequence of such default, the corporation is entitled to the remedy over against the board provided for by section 450. Remedy over of township against board for damages occasioned by non-repair

(2) The amount required to satisfy the liability of the board shall be levied and collected by a special rate on the rateable property in the village, and it is the duty of the board to make a requisition in writing to the council of the township to levy and collect the same. Special rate for collection of amount of damages

(3) Where a village comprises parts of two or more townships, the special rate shall be apportioned between the townships in the manner provided by section 497, and shall be levied and collected by the councils thereof in accordance with the requisition of the board. R.S.O. 1950, c. 243, s. 529. Apportionment of special rate

**519.**—(1) The board has the like powers as the council of a village for constructing, purchasing, improving, extending, maintaining, managing and conducting water, light, heat, power and gas works. Power to construct water, light, heat, power and gas works

(2) A copy of every by-law passed under the authority of subsection 1 shall be filed with the clerk of every township in which any part of the village is situate. Copy of by-law to be filed with township clerk

(3) Where the village is situate in one township, the council of that township shall levy and collect the amount required to be raised under any such by-law by a special annual rate upon the rateable property in the village, and, where the village comprises parts of two or more townships, the council of each township shall levy and collect the proportion of the amount to be raised by it by a special annual rate on the rateable property in that part of the village situate in such township. Special rates

(4) The proportion to be raised by each township shall be determined under section 497. Proportion of each township

Issue of  
debentures

(5) Where it is necessary to issue debentures for any of the purposes of this section, the township or townships in which the village is situate may issue debentures for its due proportion to be determined as aforesaid. R.S.O. 1950, c. 243, s. 530.

Board to  
have all  
powers of  
trustees of  
a police  
village

**520.**—(1) The powers expressly conferred on boards of trustees of police villages are in addition to the powers conferred by this Part on trustees of a police village and, except where other provision is made by this Part with respect to such boards, all the provisions of this Part relating to trustees of police villages apply to such boards.

Power to  
impose  
fines,  
etc.

(2) Sections 482, 484 and 485 apply *mutatis mutandis* to by-laws passed under the authority of this Part by a board of trustees of a police village. R.S.O. 1950, c. 243, s. 531.

## PART XXIII

### IMPROVEMENT DISTRICTS

R.S.O. 1960,  
c. 98,  
Part III,  
to apply

**521.** Every improvement district is subject to Part III of *The Department of Municipal Affairs Act*. 1954, c. 56, s. 36, *part*.

Nature and  
status

**522.**—(1) Every improvement district shall be deemed to be for all purposes of every Act a township municipality, a village municipality or a town municipality as may be designated from time to time by the Municipal Board, except that its powers instead of being exercised by a council shall be exercised by a board of three trustees appointed and designated as chairman, vice-chairman and member by the Lieutenant Governor in Council.

Special  
provision  
re trustees

(2) Where, in an improvement district, a high school district is established and a separate school is maintained, one of the trustees appointed under subsection 1 shall be a separate school supporter.

Quorum

(3) Two members of the board form a quorum.

Vacancies

(4) If a vacancy occurs on the board through death, resignation or otherwise, the vacancy may be filled and the members redesignated by the Lieutenant Governor in Council.

Board  
deemed to  
be local  
boards  
R.S.O. 1960,  
cc. 98, 362

(5) The members of the board, with respect to the improvement district, shall be the members of every local board within the meaning of *The Department of Municipal Affairs Act*, except a local board of health, a separate school board, or a high school board of a high school district established under subsection 4 of section 12 of *The Secondary Schools and Boards of Education Act*.

(6) The chairman of the board, with respect to the improvement district, has the powers and shall perform the duties of a mayor or reeve and the chairman of every local board of which the members are the members of the board of trustees and, when the improvement district forms part of a county for municipal purposes, he is a member of the county council. Chairman

(7) The vice-chairman of the board, during the absence of the chairman through illness or otherwise or if the office of chairman is vacant, has all the powers and shall perform the duties of the chairman except that he shall not act in the place of the chairman on a county council. Vice-chairman

(8) The board shall appoint a secretary-treasurer who may be a member of the board, who shall hold office during pleasure and, with respect to the improvement district, has the powers and shall perform the duties of the clerk, treasurer, assessor and collector of a municipality, and the secretary and treasurer of every local board of which the members are the members of the board of trustees. 1954, c. 56, s. 36, *part*. Secretary-treasurer

(9) Where the secretary-treasurer is the chairman of the board, he is eligible to sit and vote as a member of the county council and clause *e* of subsection 1 of section 35 does not apply. 1958, c. 64, s. 39. Secretary-treasurer eligible as member of county council

**523.**—(1) When an improvement district has been in existence for more than three years, the board of trustees may by by-law, passed with the assent of the resident ratepayers, provide for the election of the members of the board, in which case the provisions of this Act with respect to elections apply *mutatis mutandis*. Election of trustees

(2) At the first meeting of the board after each election, the trustees shall elect one of themselves as chairman and another as vice-chairman. 1954, c. 56, s. 36, *part*. Chairman and vice-chairman

**524.** Every improvement district may,

(a) acquire and hold land within the improvement district for development purposes;

(b) survey, clear, grade and subdivide such land;

(c) undertake with respect to such land any undertaking, work, project, scheme, act, matter or thing that may be undertaken by a municipality under any Act;

(d) sell, lease or otherwise dispose of such land; and

(e) borrow money upon debentures for any of the purposes mentioned in clauses *a* to *d*. 1956, c. 50, s. 20. Acquisition of land for development



## PART XXIV

## MISCELLANEOUS

Forms of  
notices, etc.,  
by-laws

**525.** Where the forms therefor are not prescribed by this Act, the Department may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved is not open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto, but the use of such forms is not obligatory. R.S.O. 1950, c. 243, s. 532.

FORM 1

(Section 48 (1) (a))

DECLARATION OF QUALIFICATION BY CANDIDATE

I, ....., a candidate for election to the office of .....  
in the municipality of ..... declare that:

1. I am a householder residing in this municipality and am assessed  
as owner (*or* tenant) of a dwelling or apartment house (*or* part of a dwelling  
or apartment house separately occupied as a dwelling) or (am rated on the  
last revised assessment roll for land held in my right for an amount sufficient  
to entitle me to be entered on the voters' list) and that I reside in (*or*  
within five miles of) the municipality.

2. I am entered on the last revised voters' list as qualified to vote at  
municipal elections.

3. I am a British subject and am not a citizen or a subject of any  
foreign country.

4. I am of the full age of 21 years.

5. I am not disqualified under section 35 of *The Municipal Act* or  
under any other Act.

6. I have taken the oath of allegiance (Form 2), which I attach hereto.

And I make this solemn declaration conscientiously believing it to be  
true and knowing that it is of the same force and effect as if made under  
oath and by virtue of the *Canada Evidence Act*.

Declared before me at..... }  
.....this..... }  
day of....., 19..... }

R.S.O. 1950, c. 243, Form 1.

FORM 2

(Sections 34 (1) (c), 48 (1) (b))

I, ....., a candidate for election to the office of .....  
in the municipality of ..... do swear that I will be faithful  
and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning  
sovereign for the time being*).

Sworn before me at the..... }  
of ..... }  
in the ..... of ..... }  
this ..... day of ..... }  
19..... }


R.S.O. 1950, c. 243, Form 2; 1955, c. 48, s. 49.

## FORM 3


(Section 72 (1))

## BALLOT PAPER FOR CITIES AND TOWNS


## FORM FOR MAYOR

	Election for the Members of the Municipal Council of the City of ..... Ward No. .... Polling Subdivision No. .... ..... day of ..... 19.....	FOR MAYOR	<b>ALLAN</b> Charles Allan, of King Street, in the City of Toronto, Merchant.
			<b>BROWN</b> William Brown, of the City of Toronto, Banker.

## FORM FOR REEVE AND DEPUTY REEVE IN TOWNS

	Election for the Members of the Municipal Council of the Town of ..... Ward No. .... Polling Subdivision No. .... ..... day of ..... 19.....	FOR REEVE	<b>CLITHEROE</b> Albert Clitheroe, of the Town of Galt, Baker.
			<b>HUGHES</b> David Hughes, of the Town of Galt, Tinsmith.
		FOR DEPUTY REEVE	<b>FARQUHARSON</b> Robin Farquharson, of the Town of Galt, Builder.
			<b>MacPHERSON</b> Roderick MacPherson, of the Town of Galt, Printer.

## FORM FOR ALDERMEN OR COUNCILLORS

	Election for the Members of the Municipal Council of the City of ..... Ward No. .... Polling Sub- division No. .... ..... day of ..... 19.....	FOR ALDERMAN (or) COUNCILLOR	<b>ARGO</b> James Argo, of the City of Toronto, Gentleman.
			<b>BAKER</b> Samuel Baker, of the City of Toronto, Baker.
			<b>DUNCAN</b> Robert Duncan, of the City of Toronto, Printer.

[NOTE.—In the case of cities and towns where Aldermen or Councillors are elected by general vote, the form above given is to be adapted to suit the case.]

R.S.O. 1950, c. 243, Form 3.



FORM 4

(Section 72 (2))

BALLOT PAPER FOR CITIES

OF NOT LESS THAN 200,000 POPULATION

FORM FOR MAYOR AND CONTROLLERS

<div>CITY OF TORONTO</div> <div>Municipal Elections</div> <div>, 19</div> <div>Ward No.</div> <div>Polling Subdivision No.</div> <div>FOR MAYOR</div>	<div>ALLAN</div> <div>Charles Allan,</div> <div>Merchant.</div>
	<div>BROWN</div> <div>William Brown,</div> <div>Banker.</div>


FORM FOR ALDERMEN

<div>CITY OF TORONTO</div> <div>Municipal Elections</div> <div>, 19</div> <div>Ward No.</div> <div>Polling Subdivision No.</div> <div>FOR ALDERMAN</div>	<div>ARGO</div> <div>James Argo,</div> <div>Gentleman.</div>
	<div>BAKER</div> <div>Samuel Baker,</div> <div>Baker.</div>
	<div>DUNCAN</div> <div>Robert Duncan,</div> <div>Printer.</div>
	<div>ROBINSON</div> <div>Archibald Robinson,</div> <div>Butcher.</div>

## FORM 5

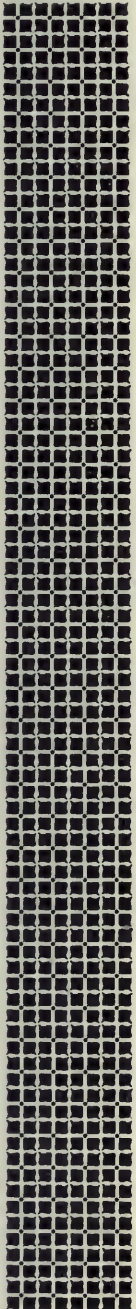
(Section 72 (1))

## BALLOT PAPER FOR VILLAGES

	Election of Members of the Municipal Council of the ..... of ..... in the County of ....., Polling Subdivision No. .... day of ....., 19.....	<b>FOR REEVE</b>	<b>BROWN</b> John Brown, of the Village of Weston, Merchant.
		<b>FOR COUNCILLORS</b>	<b>ROBINSON</b> George Robinson, of the Village of Weston, Physician.
			<b>BULL</b> John Bull, of the Village of Weston, Butcher.
			<b>JONES</b> Morgan Jones, of the Village of Weston, Grocer.
			<b>McALLISTER</b> Allister McAllister, of the Village of Weston, Tailor.
			<b>O'CONNELL</b> Patrick O'Connell, of the Village of Weston, Milkman.

R.S.O. 1950, c. 243, Form 5.

FORM 6  
(Section 72 (1))  
BALLOT PAPER FOR TOWNSHIPS

	Election of Members of the Municipal Council of the Township of ..... in the County of .....	FOR REEVE	<b>ALLSOPP</b> Albert Allsopp, of the Township of York, Brewer.
			<b>BURTON</b> Henry Burton, of the Township of York, Farmer.
		FOR DEPUTY REEVE	<b>BANKS</b> John Banks, of the Township of York, Blacksmith.
			<b>CALDWELL</b> Henry Caldwell, of the Township of York, Market Gardener.
			<b>CONNOR</b> Patrick Connor, of the Township of York, Cattle Dealer.
			<b>DAVIDSON</b> Thomas Davidson, of the Township of York, Milkman.
		FOR COUNCILLORS	<b>BRITTON</b> James Britton, of the Township of York, Farmer.
			<b>LLOYD</b> David Lloyd, of the Township of York, Farmer.
			<b>MACDONALD</b> Philip Macdonald, of the Township of York, Agent.
			<b>O'LEARY</b> Dennis O'Leary, of the Township of York, Farmer.



[NOTE.—Where the election is to fill a vacancy, the ballot papers are to contain only so much of the form as is required, and the counterfoils shall bear, instead of the words appearing on the form, the words "Election of ..... , to fill a vacancy in the office of ..... Ward No. ...., Polling sub-division No. ...., ..... day of ....., 19.....".

Where controllers, or commissioners, or members of the board of education, are to be elected, the ballot papers are to be similar in form.]

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## FORM 7

(Section 77)

### DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING

The voter will go into one of the compartments and, with a pen or pencil, place a cross, thus X, on the right hand side, opposite the name or names of the candidate or candidates for whom he votes or at any place within the division that contains the name or names of such candidate or candidates.

The voter will fold up the ballot paper so as to show the name or initials of the deputy returning officer (*or* returning officer, *as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the deputy returning officer (*or* returning officer, *as the case may be*) and forthwith quit the polling place.


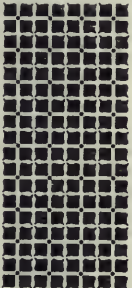

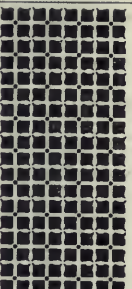
If the voter inadvertently spoils a ballot paper, he may return it to the deputy returning officer (*or* returning officer, *as the case may be*) who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more candidates for any office than he is entitled to vote for, his ballot paper will be void as far as relates to that office, and will not be counted for any of the candidates for that office.

If the voter places any mark on his ballot paper by which he may afterwards be identified, or if the ballot paper has been torn, defaced, or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the officer, he will be subject to imprisonment for any term not exceeding 6 months, with or without hard labour.

In the following forms of ballot paper, given for illustration, the candidates are, for Mayor, Jacob Thompson and Robert Walker; for Reeve, George Jones and John Smith; for Deputy Reeve, Thomas Brown and William Davis; for Councillors, John Bull, Morgan Jones, Allister McAllister and Patrick O'Connell; and the elector has marked the first ballot paper in favour of Jacob Thompson for Mayor, the second ballot paper in favour of George Jones for Reeve, the third ballot paper in favour of William David for Deputy Reeve, and the fourth ballot paper in favour of John Bull and Patrick O'Connell for Councillors.

	Election for the Members of the Municipal Council of the Town of....., Ward No. ...., Polling Sub-division No. ...., 19.....	FOR MAYOR	<div>THOMPSON</div> <div>Jacob Thompson, of the Town of Barrie, Merchant. X</div> <div>WALKER</div> <div>Robert Walker, of the Town of Barrie, Physician.</div>
	Election for the Members of the Municipal Council of the Town of....., Ward No. ...., Polling Sub-division No. ...., 19.....	FOR REEVE	<div>JONES</div> <div>George Jones, of the Town of Barrie, Barrister. X</div> <div>SMITH</div> <div>John Smith, of the Town of Barrie, Banker.</div>
	Election for the Members of the Municipal Council of the Town of....., Ward No. ...., Polling Sub-division No. ...., 19.....	FOR DEPUTY REEVE	<div>BROWN</div> <div>Thomas Brown, of the Town of Barrie, Grocer. X</div> <div>DAVIS</div> <div>William Davis, of the Town of Barrie, Jeweller.</div>
	Election for the Members of the Municipal Council of the Town of....., Ward No. ...., Polling Sub-division No. ...., 19.....	FOR COUNCILLORS	<div>BULL</div> <div>John Bull, of the Town of Barrie, Butcher. X</div> <div>JONES</div> <div>Morgan Jones, of the Town of Barrie, Grocer.</div> <div>McALLISTER</div> <div>Allister McAllister, of the Town of Barrie, Tailor.</div> <div>O'CONNELL</div> <div>Patrick O'Connell, of the Town of Barrie, Milkman. X</div>





FORM 9

(Section 85 (1))

CERTIFICATE AS TO ASSESSMENT ROLL AND VOTERS' LIST

Election to the Municipal Council of the.....  
..... of ....., 19.....

I, ....., Clerk of the Municipality of ..... in the  
County of ....., hereby certify that the assess-  
ment roll for this municipality upon which the voters' list to be used at  
this election is based was returned on the.....  
day of ....., 19....., and that the last day for making  
complaint to the Judge with respect to the list was the.....  
day of ....., 19.....

Dated this..... day of ....., 19.....

[Seal] ..... Clerk

R.S.O. 1950, c. 243, Form 9; 1951, c. 53, s. 25.

FORM 10

(Section 37 (7-9))

Municipality of.....

CERTIFICATE TO ENTER NAME ON VOTERS' LIST

I hereby certify that the name of the following person, that is to say:

Name	Con- dition	Lot	Street or Con- cession	Owner, Tenant, etc.	Post Office Address	Jurors' column
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....

has been omitted from the last revised voters' list of this municipality and  
that he is entitled to be entered thereon and to vote at the municipal poll  
to be held on the ..... day of ....., 19....., for Polling  
Subdivision No. .... in the ..... Ward, and this is  
your authority for entering the name of such person on the voters' list for  
the said subdivision and for permitting him to vote as if his name had  
been entered before the said list was revised.

Given under my hand this ..... day of ....., 19.....

..... Clerk

To the Returning Officer  
and Deputy Returning Officer,  
Polling Subdivision No. .... Ward.

R.S.O. 1950, c. 243, Form 10; 1952, c. 63, s. 25.

## FORM 11

(Section 90 (15))

CERTIFICATE AS TO VOTERS WHO HAVE VOTED  
AT ADVANCE POLL

I, ....., Returning Officer for the municipal election for the ..... of ....., certify that the following voters listed on the Voters' List for Polling Subdivision No. .... of the ..... of ..... have voted at an advance poll held for this election:

Name

Address

.....  
.....

Given under my hand this ..... day of .....,  
19.....

.....  
Returning Officer.

1954, c. 56, s. 37.

## FORM 12

(Section 95 (1))

## OATH TO BE ADMINISTERED TO A VOTER

You swear (a)

1. That you are the person named or intended to be named by the name of ..... in the list (or supplementary list) of voters (b) now shown to you.

2. That you are a natural born (or naturalized) subject of Her Majesty, and of the full age of 21 years.

3. That you are not a citizen or subject of any foreign country.

4. That (c).

5. (In the case of a municipality not divided into wards) That you have not voted before at this election at this or any other polling place.

6. (Where the municipality is divided into wards and the election is not by general vote.) That you have not voted before at this election at this or any other polling place in this ward, (or if the election is by general vote) that you reside in this polling subdivision (or are not entitled to vote in the polling subdivision in which you reside or are not resident within the municipality, as the case may be), and that you have not voted before or elsewhere at this election, and will not vote elsewhere at this election (d).

7. That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender.

8. That you have not received anything, nor has anything been promised you, directly or indirectly, to induce you to vote at this election.

9. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or to refrain from voting at this election.

(a) *If the voter is a person who may by law affirm in civil cases, substitute for "swear", "solemnly affirm".*

(b) *In the case of a new municipality in which there has not been any assessment roll, instead of referring to the list of voters, the oath is to state the land in respect of which the person claims to vote.*

(c) *In the case of a person claiming to vote in respect of a freehold estate, insert here, "At the date of this election you are in your own right (or your wife is in her own right or your husband is in his own right) owner of land within this polling subdivision (or, in case of a ward, not divided into polling subdivisions, "within this ward").*

*In the case of a person claiming to vote in respect of a leasehold estate, insert here, "That you were (or your wife was or your husband was) actually and truly in good faith possessed to your (or her or his) own use, and benefit as tenant of the land in respect of which your name is entered on such list". And in the case of a wife or husband of a tenant, insert here, "And your (wife or husband) is a resident of this municipality and has resided within it for one month next before this election".*

*In the case of a person claiming to vote as a farmer's son, insert here That on the ..... day of ....., 19....., (the day certified by the clerk as the date of the final revision of the assessment roll upon which the voters' list is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the Judge with respect to such list) A.B., (naming him or her) ..... was actually, truly and in good faith possessed to his (or her) own use and benefit as owner (or as tenant under a lease the term of which was not less than five years, as you verily believe of the land in respect of which your name is entered on the voters' list, and that you are a son (or a stepson) of the said A.B., and that you resided on the said land for twelve months next before the said day, and were not absent during that period except temporarily, and for not more than six months in all, and that you are still a resident of this municipality.*

*Where the voter is a leaseholder, and the voting is on a by-law under section 69 of The Local Improvement Act, add:*

That you have, by the lease under which you hold, contracted to pay all municipal taxes, including local improvement rates.

(d) *(In the case of a municipality divided into wards, if the by-law is one for creating a debt, substitute for paragraph 6 the following):*

6. That you have not voted before on the by-law at this or any other polling place in this ward; *(and in the case of any other by-law, the following):*

6. That you reside in this polling subdivision *or* are not entitled to vote in the polling subdivision in which you reside *or* are not resident within the municipality *(as the case may be)*, and that you have not voted before elsewhere, and will not vote elsewhere on the by-law.

*Where the voter is a leaseholder, and the voting is on a by-law for creating a debt, add the following paragraph:*

10. That the lease under which you hold extends for the period for which the debt or liability to be created by the by-law is to run, and you have contracted by the lease to pay all municipal taxes in respect of the land other than special assessments for local improvements.

*Where the voting is on a by-law, substitute for the words "at this election" the words "on the by-law"; and where the voting is on a question, substitute for the words "at this election" the words "on the question".*

R.S.O. 1950, c. 243, Form 11; 1955, c. 48, s. 50.

NOTE.—Where the voter is the nominee of a corporation, the oath shall state the fact, and that the voter has not voted before on the by-law "at this or any other polling place", adding if the municipality is divided into wards "in this ward", and shall also contain paragraphs 1, 7, 8 and 9.



## FORM 13

(Section 100)

## DECLARATION OF INABILITY TO READ

I, *A.B.*, of ....., being numbered ..... on the voters' list for polling subdivision No. ...., in the City (*or as the case may be*) of ....., being a legally qualified elector for the City (*or as the case may be*) of ....., declare that I am unable to read (*or that I am from physical incapacity unable to mark a ballot paper, or that I object on religious grounds to mark a ballot paper, as the case may be*).

(A.B., His X Mark)

Dated this ..... day of ....., 19.....

R.S.O. 1950, c. 243, Form 12.

NOTE.—If the person objects on religious grounds to mark a ballot paper the declaration may be made orally and to the above effect.

## FORM 14

(Section 100 (5))

## DECLARATION OF FRIEND OF BLIND VOTER

I, (*insert name of friend*), of the ..... of ....., in the County of ....., ..... (*occupation*), declare that I will keep secret the name of the candidate for whom I mark the ballot of ..... (*name of blind voter*) ..... on whose behalf I act.

Dated this ..... day of ....., 19.....

Witness:

*Deputy Returning Officer**Signature of friend*

R.S.O. 1950, c. 243, Form 13.

## FORM 15

(Section 100 (7))

## CERTIFICATE TO BE WRITTEN UPON OR ANNEXED TO THE DECLARATION OF INABILITY TO READ

I, *C.D.*, Deputy Returning Officer for Polling Subdivision No. .... for the City (*or as the case may be*) of ....., hereby certify that the above (*or within*) declaration, having been first read to the above (*or within*) named *A.B.*, was signed by him in my presence with his mark.

*C.D.*

Dated this ..... day of ....., 19.....

R.S.O. 1950, c. 243, Form 14.

## FORM 16

(Section 114 (1))

OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY RETURNING  
OFFICER IS UNABLE TO DELIVER THE BALLOT BOX TO THE  
RETURNING OFFICER

I, ....., swear that I am the person to whom  
....., Deputy Returning Officer for Polling Subdivision  
No. ...., of the ..... of .....  
entrusted the ballot box for the polling subdivision to be delivered to the  
Clerk; that the ballot box that I delivered to the Clerk this day is the  
ballot box I so received; that I have not opened it and that it has not  
been opened by any other person since I received it from the Deputy  
Returning Officer.

Sworn before me at..... }  
..... this ..... }  
day of ....., 19..... }

R.S.O. 1950, c. 243, Form 15.

## FORM 17

(Section 114 (3))

## OATH OF DEPUTY RETURNING OFFICER AFTER CLOSING OF THE POLL

I, ....., Deputy Returning Officer for Polling Subdivision  
No. ...., of the City (*or as the case may be*) of ..... in the County  
of ..... swear that, to the best of my knowledge and belief, the poll  
book kept for the polling place under my direction has been kept correctly,  
that the total number of voters polled according to the poll book is .....,  
and that it contains a true and exact record of the votes given at the  
polling place, as the votes were taken thereat; that I have correctly counted  
the votes given for each candidate, in the manner by law provided, and  
performed all duties required of me by law, and that the statement, voters'  
list, poll book, packets containing ballot papers, and other documents  
required by law to be returned by me to the Clerk, have been faithfully  
and truly prepared and placed in the ballot box, and are contained in  
the ballot box returned by me to the Clerk, which was locked and sealed  
by me, in accordance with *The Municipal Act*, and remained so locked and  
sealed while in my possession.

Sworn before me at..... }  
in the County of..... }  
this ..... day of ....., 19.... }

R.S.O. 1950, c. 243, Form 16.





## FORM 21

(Section 236 (3))

## DECLARATION OF CONSTABLES

I, ....., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*) in this municipality, and that I have not received and will not receive any payment or reward, or promise thereof, for the exercise of any partiality or malversation or other undue execution of such office.

R.S.O. 1950, c. 243, Form 20.

## FORM 22

(Section 236 (4))

OATH OF RETURNING OFFICER, DEPUTY RETURNING  
OFFICER AND POLL CLERK

I, ....., swear that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute, the office of (*inserting the name of the office*) in this municipality and that I have not received and will not receive any payment or reward, or promise thereof, for the due exercise of any partiality or malversation or other undue execution of such office.

Sworn before me this..... }  
day of ....., 19..... }

R.S.O. 1950, c. 243, Form 21.

## FORM 23

(Section 236 (6))

## DECLARATION OF AUDITOR

I, ....., having been appointed auditor for the municipal corporation of ....., promise and declare that I will faithfully perform the duties of that office according to the best of my judgment and ability; and I do solemnly declare that I had not, directly or indirectly, any share or interest in any contract or employment (except that of auditor, *if reappointed*) with, by or on behalf of such municipal corporation during the year preceding my appointment, and that I have not any such contract or employment except that of auditor, for the present year.

R.S.O. 1950, c. 243, Form 22.

FORM 24

(Section 259 (2))

DECLARATION OF ELECTOR

I, the undersigned, ....., declare that I am an elector in this municipality, and that I am desirous of promoting (or opposing, as the case may be) the passing of the by-law to (here insert object of the by-law), submitted by the Council of this municipality (or of voting in the affirmative, or in the negative, as the case may be), on the question submitted.


Declared before me this..... }  
day of....., 19..... }

R.S.O. 1950, c. 243, Form 23.

FORM 25

(Section 266)

BALLOT PAPER FOR VOTING ON A BY-LAW


	<div>.....19..... Voting on By-law to (here insert object of the by-law) sub- mitted by the Council of the ..... of .....</div>	<b>FOR</b>  The By-law.
		<b>AGAINST</b>  The By-law.

R.S.O. 1950, c. 243, Form 24.

FORM 26

(Section 266)

BALLOT PAPER FOR VOTING ON QUESTION

	<div>.....19..... Voting on the follow- ing question (here state questions).</div>	<b>YES</b>
		<b>NO</b>

R.S.O. 1950, c. 243, Form 25.

FORM 27

(Section 267)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING

The voter will go into one of the compartments and, with a pen or pencil, place a cross, thus X, on the right hand side, in the upper space if he votes for the passing of the by-law, or in the affirmative on the question, and in the lower space if he votes against the passing of the by-law, or in the negative on the question.

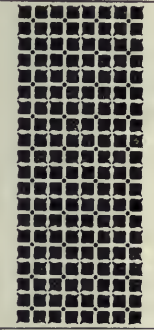
The voter will then fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, *as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the Deputy Returning Officer (or Returning Officer, *as the case may be*) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer, *as the case may be*), who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter places on the paper more than one mark, or places any mark on his ballot paper by which he may be afterwards identified, or if the ballot paper has been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer (or Returning Officer, *as the case may be*), he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

*In the following form of ballot paper, given for illustration, the Elector has marked his ballot paper in favour of the passing of the By-law:*

	Voting on By-law to (here insert object of the by-law) submitted by the Council of the ..... of .....	FOR	X
		The By-law.	
		AGAINST	
		The By-law.	



FORM 28

(Section 275 (1))

NOTICE ON PROMULGATION OF BY-LAW

The above is a true copy of a by-law passed by the Municipal Council of the ..... of ..... on the ..... day of ....., 19..... And all persons are hereby required to take notice that anyone desirous of applying to have such by-law, or any part thereof, quashed must make his application for that purpose to the Supreme Court, within three months next after the first publication of this notice in the newspaper called the ....., or he will be too late to be heard in that behalf.

R.S.O. 1950, c. 243, Form 27.

## CHAPTER 250

## The Municipal Arbitrations Act

1.—(1) All claims against the corporation of a city having a population of not less than 100,000, or against the corporation of any other municipality to which this Act applies, and all claims made jointly against such corporation and the corporation of an adjoining municipality for compensation or damages for land expropriated or injuriously affected under *The Municipal Act*, and all other claims and questions arising under any lease or other contract to which the corporation is a party, and which by law or by the terms of the lease or contract are to be determined by arbitration, shall be heard and determined by an official referee appointed by the Lieutenant Governor in Council and who shall be called the "Official Arbitrator". R.S.O. 1950, c. 244, s. 1 (1); 1956, c. 51, s. 1 (1). Appointment of Official Arbitrator  
R.S.O. 1960, c. 249

(2) An official referee may be appointed by the Lieutenant Governor in Council for any municipality to which this Act applies and he shall be the "Official Arbitrator" for the municipality for which he is appointed. 1956, c. 51, s. 1 (2). Appointment of Official Arbitrator for specific municipality

(3) The Official Arbitrator shall, Powers, etc., of Official Arbitrator

(a) be a judge of a county court or a barrister of at least ten years standing at the Bar of Ontario; qualification

(b) have all the powers of an official referee under *The Judicature Act* and of an arbitrator under *The Municipal Act* or under *The Arbitrations Act*; powers  
R.S.O. 1960, cc. 197, 249, 18

(c) be an officer of the Supreme Court; status

(d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation; disability

(e) have all the powers of a judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of valuers, appraisers, engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties, including the power of awarding costs. R.S.O. 1950, c. 244, s. 1 (2). other powers

## Vacancy

**2.—**(1) The death of the Official Arbitrator or his ceasing to hold office from any cause pending a reference before him, before his award is made, does not abate the proceedings, but such reference shall be continued and all proceedings therein already taken shall be adopted, and an award made therein by his successor in office.

Deputy  
Official  
Arbitrator

(2) The Lieutenant Governor in Council may appoint a Deputy Official Arbitrator and, in case of the illness or absence or inability to act of the Official Arbitrator and during a vacancy in the office, the Deputy Official Arbitrator has all the powers and shall perform all the duties of the Official Arbitrator. R.S.O. 1950, c. 244, s. 2 (1, 2).

Deputy  
Official  
Arbitrator  
for specific  
municipality

(3) Where an Official Arbitrator has been appointed for a municipality under subsection 2 of section 1, a Deputy Official Arbitrator may be appointed for such municipality and he shall be the "Deputy Official Arbitrator" for the municipality for which he is appointed. 1956, c. 51, s. 2.

Death of  
claimant

(4) The death of the claimant pending a reference before the Official Arbitrator does not abate or determine the proceedings already taken before him, but such proceedings already taken may be continued by or against the legal representatives of the deceased, or by or against the person or persons upon whom the estate or interests of the deceased devolves. R.S.O. 1950, c. 244, s. 2 (3).

Commence-  
ment of pro-  
ceedings

**3.** If any person interested in any such claim or question desires that the same should be determined by the Official Arbitrator, he shall give to the clerk of the municipality and to every other person interested seven clear days notice that the same is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy, and upon such notice, with proof of the service of it, being filed with him, the Official Arbitrator may proceed to hear and determine the matters so referred to him. R.S.O. 1950, c. 244, s. 3.

When  
Official  
Arbitrator  
to state  
reasons in  
writing

**4.** Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Court of Appeal to determine the weight that should be attached to it. R.S.O. 1950, c. 244, s. 4.

Filing  
award and  
evidence

**5.** The award of the Official Arbitrator and exhibits and the reasons for his decision shall be filed in the office of the registrar of the Court of Appeal, and notice of the filing shall be given forthwith by the Official Arbitrator to the parties who



appeared or were represented upon the reference or to their solicitors, and upon the request of any of the parties interested in the inquiry, the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the registrar. R.S.O. 1950, c. 244, s. 5.

**6.** The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. R.S.O. 1950, c. 244, s. 6. Fees to be paid before award made public

**7.** The award may be appealed against to the Court of Appeal in the same manner as the decision of a judge of the Supreme Court sitting in Court is appealed from, and subject to section 349 of *The Municipal Act* is binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. R.S.O. 1950, c. 244, s. 7. Appeal to Court of Appeal  
R.S.O. 1960, c. 249

**8.** The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal. R.S.O. 1950, c. 244, s. 8. Vacation

**9.** Where no appeal is taken within the prescribed time or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. R.S.O. 1950, c. 244, s. 9. Giving out exhibits when no appeal

**10.** Where an action has been brought or is pending, the court or a judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be deemed proper, and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may deem just and convenient, and subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. R.S.O. 1950, c. 244, s. 10. Transferring actions to Arbitrator

**11.** Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. R.S.O. 1950, c. 244, s. 11. How costs to be taxed

**12.—(1)** One-half of the fees and expenses of the Official Arbitrator is payable by each of the parties to the reference By whom payable

if only two parties are interested, and proportionately by all parties interested if a larger number than two are so interested; but the Official Arbitrator has power to award that any sum so paid or payable may be recoverable by any one or more of the parties from any other or others of them, and such fees and expenses are recoverable as any other costs of the arbitration. R.S.O. 1950, c. 244, s. 12 (2); 1956, c. 51, s. 3 (2).

Recovery of  
fees

(2) If the award is not taken up within thirty days after service upon the parties of the notice of filing thereof, the fees and expenses of the Official Arbitrator are recoverable by action from any one or more of the parties to the arbitration.

Idem

(3) Nothing herein prejudicially affects the right of the Official Arbitrator to recover his fees or expenses in any way in which they may now be recovered. R.S.O. 1950, c. 244, s. 12 (3, 4).

Appoint-  
ment of  
assessor

**13.**—(1) The Lieutenant Governor in Council may appoint for such municipality an assessor of sound judgment, experience and knowledge in and as to matters relating to real property within the municipality to sit with the Official Arbitrator.

In what  
cases to be  
called in

(2) The assessor shall be called upon by the Official Arbitrator,

(a) upon the request of all the parties to an arbitration, and at any stage of the proceedings; or

(b) where the Official Arbitrator desires his advice and assistance, and no party to the proceedings objects thereto at the time he is so called upon.

Function of  
assessor

(3) The assessor shall not make or join in the award, but shall otherwise give the Official Arbitrator such assistance as he may require.

Assessor's  
fee

(4) The assessor is entitled for his services while sitting on an arbitration to be paid at the rate of \$10 per day, or a proportionate part thereof where a sitting on any one day occupies less than a whole day, and for a meeting where the reference is not proceeded with but a postponement is made at the request of any party, \$2.

How  
payable

(5) The fees of the assessor are payable by the same parties and in the same proportion and manner and are recoverable in the same way as those of the arbitrator, and shall be treated in all respects in the same manner as the fees of the arbitrator as to the ultimate payment thereof and as to the manner of such payment. R.S.O. 1950, c. 244, s. 13.

**14.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee has the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as it has in respect of proceedings under *The Judicature Act*. R.S.O. 1950, c. 244, s. 14. <sup>Power to make rules and tariff  
R.S.O. 1960, c. 197</sup>

**15.—(1)** This Act extends and applies to The Municipality of Metropolitan Toronto, the County of York and to the Township of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality be brought within the provisions of this Act, and in such case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof. R.S.O. 1950, c. 244, s. 15 (1); 1956, c. 51, s. 4 (1). <sup>Application of Act</sup>

(2) The council of a municipality that has passed a by-law under subsection 1 may repeal it at any time after the expiration of six months from the passing of the by-law, and upon such repeal this Act ceases to apply or be in force in the municipality. R.S.O. 1950, c. 244, s. 15 (3). <sup>Repeal of by-law bringing Act into force</sup>

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## CHAPTER 251

**The Municipal Corporations Quieting Orders Act****1.** In this Act,Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Department" means the Department of Municipal Affairs;
- (c) "municipality" means a county, city, town, village or township;
- (d) "quieting order" means an order establishing the legal existence or corporate status of a municipality, or establishing its proper area and boundaries or any of its boundaries, in order to quiet doubts affecting the same. R.S.O. 1950, c. 245, s. 1; 1954, c. 58, s. 1.

**2.—**(1) Upon the application of the council of a municipality, the Board may make a quieting order respecting the municipality.

Power to  
make  
quieting  
order

(2) A quieting order may be made retroactive in its effect and operation for the purpose and to the extent provided therein, except that it does not affect or prejudice the rights of any person in any action, litigation or other proceeding pending at the time when the order is made. R.S.O. 1950, c. 245, s. 2.

Retroactive  
effect of  
order

**3.—**(1) Where the council of a municipality is aware of any doubt affecting the legal existence or corporate status or proper area and boundaries of the municipality, or any of its boundaries, it may apply to the Board for a quieting order. R.S.O. 1950, c. 245, s. 3 (1); 1954, c. 58, s. 2.

Application  
for quieting  
order

(2) The application shall be in duplicate and shall specify the nature and cause of the doubt that exists and set forth full particulars of all evidence and proofs that are known respecting the existence and status and the area and boundaries of the municipality.

Particulars  
of applica-  
tion

(3) Upon receipt of an application for a quieting order,

- (a) the secretary of the Board shall transmit one copy to the Department; and

Duplicate  
copy for  
Department

Appointment  
for hearing  
and notice  
thereof

- (b) the Board shall fix a day, time and place for hearing the application and shall direct the applicant as to the notice of the application and of the appointment for hearing to be published by it and as to any special notice thereof it shall give to any other municipality and to any person. R.S.O. 1950, c. 245, s. 3 (2, 3).

Objections  
to be heard

4. The Board shall hear any other municipality and any person present or represented at the hearing and take into consideration any objections to the application. R.S.O. 1950, c. 245, s. 4.

Effect of  
quieting  
order

5. Every quieting order made by the Board is according to its tenor valid and binding for all purposes and upon all municipalities and persons. R.S.O. 1950, c. 245, s. 5.

Publication  
of quieting  
orders

6. Forthwith after the issue of a quieting order, the applicant shall,

- (a) publish the order locally in such manner as the Board may direct;
- (b) publish a copy in *The Ontario Gazette*;
- (c) file a certified copy with the Department; and
- (d) register a certified copy in the proper registry office, as in the case of an order of the Board registered under section 75 of *The Registry Act*, which section applies. R.S.O. 1950, c. 245, s. 6.

R.S.O. 1960,  
c. 348

Powers of  
Department

7. The Department may,
- (a) authorize the board of trustees of an improvement district or of a police village to apply under this Act for a quieting order with respect to the improvement district or police village, as the case may be, and for such purpose all the provisions of this Act *mutatis mutandis* apply;
  - (b) require the council of any municipality to apply for a quieting order with respect to the municipality and upon neglect or failure of the council to apply for the order within sixty days after being so required, the Department may on behalf of the council and in the name of the municipality apply to the Board for the quieting order. R.S.O. 1950, c. 245, s. 7.

Fee of  
Board

8. The fee payable upon an application under this Act shall be fixed by the Board, but shall not exceed \$10. R.S.O. 1950, c. 245, s. 8.



## CHAPTER 252

**The Municipal Drainage Act****1. In this Act,**Interpre-  
tation

- (a) "construction" means the original opening, making, excavating or completing of drainage work;
- (b) "county" includes a provisional judicial district;
- (c) "county court" includes a district court;
- (d) "court of revision" means a court of revision constituted under this Act for the trial of complaints respecting assessments for drainage work;
- (e) "initiating municipality" means the municipality undertaking the construction of any drainage work to which this Act applies;
- (f) "judge" means the senior, junior, or acting judge of the county or district court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but does not include a deputy judge;
- (g) "maintenance" means the preservation and keeping in repair of a drainage work;
- (h) "municipality" does not include a county, except as an owner within the meaning of clause i;
- (i) "owner" or "actual owner" includes the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell or convey the land, an agent of an owner under a general power of attorney or under a power of attorney empowering him to deal with lands, and a municipal corporation as regards highways and bridges under its jurisdiction;
- (j) "public utility" means any waterworks, gasworks, including works for the production, transmission, distribution and supply of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or any mixture or combination of the foregoing, electric heat, light and power works, and telegraph and telephone lines;

- (*k*) "referee" means the referee for the purpose of the drainage laws of Ontario as hereinafter provided;
  - (*l*) "reference" means a reference or transfer to the referee under this Act;
  - (*m*) "relief" means relieving from liability for causing water to flow upon and injure lands or roads;
  - (*n*) "sufficient outlet" means the safe discharge of water at a point where it will do no injury to lands or roads.
- R.S.O. 1950, c. 246, s. 1; 1957, c. 77, s. 1.

#### CONSTRUCTION OF DRAINAGE WORK

Undertaking  
of works  
on petition

**2.**—(1) Upon the petition of the majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in the petition within any township, village, town or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of such means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek, or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved or the lake or pond the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within the area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit and for outlet liability and relief from injuring liability as hereinafter defined. R.S.O. 1950, c. 246, s. 2 (1).

Initiating  
proceedings  
for drainage  
of highway

(2) The provisions of this Act apply and extend to any case where the drainage work is required for the drainage of a road or portion thereof and in any such case the municipal council may proceed upon a petition describing the road or part of road to be drained, and signed by the engineer or road superintendent appointed under *The Highway Improvement Act* by the department, county, commission or township having control over the road or, in the case of a road under the jurisdiction of a city, town or village, signed by the engineer of the

R.S.O. 1960,  
c. 171

municipality, and where the road forms the boundary between two municipalities, the council of either municipality may proceed on such petition. R.S.O. 1950, c. 246, s. 2 (2); 1954, c. 59, s. 1.

(3) The provisions of this Act apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operation, but in every such case the municipal council shall not proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to subsection 1.

(4) If from the lands or roads of any municipality, corporation or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, corporation or individual, the lands and roads from which the water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, court of revision, county judge or referee, and such assessment may be termed "injuring liability".

(5) The lands and roads of any municipality, corporation or individual using any drainage work as an outlet, or for which when the work is constructed an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, court of revision, county judge or referee, and such assessment may be termed "outlet liability".

(6) The owners of the lands and roads made liable to assessment under subsection 4 or 5 shall neither count for nor against the petition required by subsection 1 unless within the area therein described.

(7) The assessment for injuring liability and outlet liability provided for in subsections 4 and 5 shall be based upon the volume, and shall also have regard to the speed of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments.

(8) Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and



charged for same by the engineer or surveyor of the municipality doing the work, and such assessment shall be classified and scheduled as benefit. R.S.O. 1950, c. 246, s. 2 (3-8).

Form of  
petition

**3.** The petition shall be according to Form 1, or to the like effect. R.S.O. 1950, s. 246, s. 3.

#### DUTIES OF ENGINEER OR SURVEYOR

Oath of  
engineer or  
surveyor

**4.**—(1) Any engineer or surveyor employed or appointed by a municipal council to perform any work under this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty take and subscribe the following oath, and shall leave it with, or send it by registered mail to, the clerk of the municipality:

In the matter of the proposed drainage work (*or as the case may be*) in the township of (*name*).

I (*name in full*) of the Town of ..... in the County of ....., Engineer (*or* Surveyor) make oath and say (*or do solemnly declare and affirm*):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the ..... of .....  
in the County of ....., this .....  
day of ....., A.D. 19.....

A Commissioner, etc.

Failure to  
take oath  
not to  
invalidate

(2) The failure of the engineer or surveyor to take the oath does not invalidate any proceedings taken under this Act. R.S.O. 1950, c. 246, s. 4.

Assessment  
of land  
affected

**5.**—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but he shall nevertheless in his report show the approximate number of acres contained in the part affected by his assessment.

Subdivision  
of parcel  
assessed

(2) Where a parcel of land has been assessed by the engineer or surveyor, and one or more parts of that parcel is sold after the final revision of the assessment, the clerk of the municipality in which the parcel is situate shall direct the engineer or surveyor in writing to apportion the assessment charged against the parcel among the parts into which the parcel is divided.

Notice to  
owners

(3) The clerk shall send a copy of the direction by registered mail to the owners of the parts into which the parcel is divided.

(4) The engineer or surveyor in making the apportionment shall have regard to the part of the parcel affected by the drainage work, and shall make the apportionment in writing and file it with the clerk who shall attach it to the original assessment, and the apportionment is binding upon the lands assessed and the rate shall thereafter be levied and collected accordingly.

Apportionment of assessment

(5) The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by the engineer.

Costs of engineer

(6) Where an owner of lands not assessed for a drainage work subsequently connects the lands with the work for the purpose of drainage, the engineer or surveyor shall assess the owner for a just proportion of the work, regard being had to any compensation paid such owner in respect of the work, and thereupon every owner assessed for the work shall be given a proportionate reduction in the charges assessed against his land, but no owner shall connect such lands to the work without the approval of the council of the municipality. R.S.O. 1950, c. 246, s. 5.

Subsequent connections with drainage work

6. The assessment upon any lands or roads for any drainage work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it is not necessary to insert the fractional part of the whole cost to be borne by the lands or roads. R.S.O. 1950, c. 246, s. 6.

Assessment may be shown in money

7. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. R.S.O. 1950, c. 246, s. 7.

Plans, specifications and estimates

8.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by the work crossing any public highway or the travelled portion thereof, and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just.

Bridges and culverts on highways

(2) Any municipality may pass a general by-law for the purpose of assuming, as a charge upon the general funds of the municipality, the whole or such portion as the by-law may determine of the construction and maintenance of all bridges or culverts rendered necessary by any drainage work crossing public highways, or portions thereof within the municipality,

General by-law as to assessments for culverts, bridges on highways

and when such a by-law has been passed, it shall not be repealed, except with the permission of the referee, and so long as the by-law remains unrepealed, the engineer or surveyor shall, in his assessment, apportion the cost of such bridges and culverts in accordance with the by-law.

Construction of access bridges

(3) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work. R.S.O. 1950, c. 246, s. 8 (1-3).

Farm bridges

(4) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges and water gates rendered necessary by the drainage work upon the lands of any owner, and

- (a) shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto; or
- (b) shall provide for the construction or enlargement thereof by the drainage scheme,

and the land assessed for the drainage work is not nor is any municipal corporation liable for keeping such bridges and water gates in repair, but should the engineer or surveyor deem it proper that any of such bridges or water gates be maintained by the drainage scheme he may so provide by his report. 1952, c. 64, s. 1.

Allowance for severance

(5) If the engineer or surveyor thinks it expedient to make an allowance for severance to the owner instead of providing for the construction, enlargement or other improvement of a bridge as provided by subsections 3 and 4, he shall in his report provide for payment to the owner of such amount as he may think just by way of allowance for severance, and shall in his assessment apportion such amount as he may think fit.

Allowance for private ditches

(6) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respecting ditches or watercourses, which may be incorporated in whole or in part into the drainage work or used therewith.



(7) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops, if any, occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs.

(8) The engineer or surveyor shall likewise in his report estimate and allow in money to any person or corporation the value to the drainage work of any land belonging to such person or corporation that it is necessary to use for the purpose of the construction of a drainage work, or as a site for a pumping station to be used in connection with a drainage work, or as a means of access to any such pumping station; provided, however, that in the latter case the engineer or surveyor may allow for right of way only if in his opinion such right of way is sufficient for the purposes of the drainage work.

(9) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low-lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low-lying lands in respect of such injuries.

(10) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within thirty days after the adoption of the engineer's report by the council, and the referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this subsection may make such order as to him seems just, and his decision is final.

(11) Any owner of lands affected by the drainage work may appeal from the report of the engineer to the referee upon the ground that the benefits to be derived from the drainage

work are not commensurate with the estimated cost thereof, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within thirty days after the adoption of the engineer's report by the council, and the referee may hear and determine the appeal in a summary manner either on his own view of the area affected by the drainage work or any part or parts thereof and after hearing the parties and if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this subsection may make such order as to him seems just, and his decision is final.

Security for  
costs of  
appeal

(12) No appeal under subsection 11 shall be proceeded with until the appellant has given security in the sum of \$100 to be deposited in money with the clerk of the initiating municipality that he will effectually prosecute the appeal and pay such costs as may be awarded by the referee if his appeal is dismissed.

Appeal by  
conservation  
authority  
having juris-  
diction  
R.S.O. 1960,  
c. 62

(13) Where the proposed drainage work is a work of construction and is to be undertaken within a watershed over which a conservation authority established under *The Conservation Authorities Act* has jurisdiction, the conservation authority may appeal from the report of the engineer to the referee upon the ground that the work will injuriously affect a scheme undertaken by the authority under such Act, and the provisions of subsection 11 respecting the notice of appeal, the powers of the referee and the decision of the referee apply to any such appeal.

Notice to  
persons  
assessed and  
to owners  
for whom  
compensa-  
tion assessed

(14) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment and the amount thereof, and where more than one municipality is interested in the proposed work, the clerk of such other municipality or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered.

Notice to  
conservation  
authority  
having  
jurisdiction

(15) Where the proposed drainage work is to be undertaken within a watershed over which a conservation authority established under *The Conservation Authorities Act* has jurisdiction, the clerk shall notify the secretary-treasurer of the authority in writing of the location and estimated cost of the



work and of the date of the council meeting at which the report will be read and considered.

(16) The engineer or surveyor shall also in his report, plans, specifications and profiles sufficiently record the descriptions, locations and elevations of every bench mark or permanent level by which a drainage work is to be governed. Engineer to report on bench marks

(17) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in its discretion from time to time appoint, and the council may adopt the report of the engineer if it sees fit notwithstanding that such report is made after the six months herein fixed for making the same or after any extended period fixed by the council under this subsection, but if the engineer is unable to file his report within the time specified, the referee on the application of the engineer for an extension of time, may extend the time for the filing of the report, and shall notify the council of such extension. Time for filing report

(18) If the engineer neglects to make his report within the time limited by subsection 17, or within the time fixed by the council or referee under that subsection, he shall forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer who shall have the same duties and powers as if originally appointed and employed. If engineer neglects to do work, council may appoint another

(19) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 17. By-law not to be invalid by reason of report not being filed within six months

(20) Where a drainage work or part of a drainage work is to be constructed, repaired, improved or maintained upon, along, adjoining, under or across the lands, permanent way, transmission lines, power lines, wires, conduits or other permanent property of a public utility, the public utility has the option of constructing, repairing, improving or maintaining such work or part. Public utility may construct drainage work

(21) In the event of the public utility not exercising the option and not completing such work or part within a reasonable time and without unnecessary delay, such work or part may be completed in the same manner and under the same authority as any other part of the work. Non-exercise of option

(22) In addition to all other sums lawfully assessed against the property of the public utility under this Act, and even if the public utility is not otherwise assessable under this Act, Excess of cost, how borne



the public utility shall be assessed for and shall pay all the increase of cost of such work or part, caused by the construction and operation of the public utility.

Copy of  
report, etc.,  
to public  
utility

(23) Where the public utility is to be assessed for the increase of cost of such work or part, caused by the construction and operation of the public utility, the council initiating the work shall serve the public utility with a copy of the report, plans and specifications, assessments or other estimates of the engineer or surveyor in connection with the work.

Appeal by  
utility to  
referee

(24) The public utility so served has, at any time within three weeks after such service, a right to appeal to the referee upon any question arising in connection with the work or part that is to be completed upon, along, adjoining, under or across its property.

Order of  
referee

(25) Upon an appeal under subsection 24, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from, and may make such order in the premises and as to the costs of the appeal as may be deemed just. R.S.O. 1950, c. 246, s. 8 (5-25).

Power to  
plant  
stakes, etc.

**9.—**(1) The engineer and his assistants when engaged in the performance of their duties during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant the stakes that he deems necessary for the performance of the work and take levels on the land of any person.

Engineer to  
establish  
bench  
marks

(2) The engineer or surveyor in making his survey shall establish sufficient bench marks or permanent levels by which a drainage work may be governed.

Fine for  
interference  
with  
work or  
bench marks  
of engineer

(3) Every person who interferes with or obstructs the engineer or his assistants in the exercise of the powers conferred by subsection 1 or interferes with, removes or destroys any bench mark or permanent level mark established under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 246, s. 9.

Spreading  
earth and  
removing  
timber on  
road allow-  
ances

**10.** When a drainage work is to be constructed on or along a road allowance, the engineer or surveyor shall, upon the application of the municipal council controlling the road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than twelve feet of the middle of the road allowance, if required, and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. R.S.O. 1950, c. 246, s. 10.

## COVERING DRAINAGE WORK

**11.** Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act apply thereto in the same manner and to the same extent as to an uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. R.S.O. 1950, c. 246, s. 11.

Report on  
covering  
drains

## DISTINGUISHING ASSESSMENTS

**12.—(1)** The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the land and roads liable therefor respectively and in separate columns.

Engineer to  
distinguish  
assess-  
ments

**(2)** In fixing the sum to be assessed upon any lands or roads, the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. R.S.O. 1950, c. 246, s. 12.

Prior assess-  
ments to be  
taken into  
consider-  
ation

**13.** The engineer or surveyor shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested and the lands therein assessed, and in what proportions. R.S.O. 1950, c. 246, s. 13.

Engineer to  
report, if  
any other  
municipali-  
ties are in-  
terested  
and how

**14.** Where the engineer or surveyor deems it equitable that the expense of maintenance of a drainage work be assessed upon a basis different from that upon which the expense of its construction is to be assessed, he shall determine and in a separate assessment schedule report the basis upon which the expense of maintenance of the whole work or of any portion or portions thereof shall be assessed. R.S.O. 1950, c. 246, s. 14.

Variations  
in assess-  
ments for  
mainten-  
ance

## FILING REPORT

**15.** As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file them with the clerk of the municipality by which he was employed. R.S.O. 1950, c. 246, s. 15.

Engineer to  
file report

Engineer or surveyor to give detailed accounts of service under oath

**16.**—(1) Any engineer or surveyor employed or appointed to perform any work under this Act shall, if required so to do by the council by which he was engaged, send in his accounts to such municipalities for his services, under oath, giving detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day, and the account shall also set out whether the work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself or that of a clerk or assistant.

Audit of account

(2) The account, upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the judge free of charge.

Appointment to proceed

(3) The clerk shall deliver the account to the judge, who shall appoint a time and place at which he will proceed with the audit.

Notice

(4) The clerk shall give at least two days notice of the audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

Procedure on audit

(5) At the time and place named in the appointment, the judge shall audit the account, and may disallow any charges that he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed is not recoverable by the engineer or surveyor. R.S.O. 1950, c. 246, s. 16.

#### NOTICE TO PERSONS ASSESSED

Clerk to notify parties assessed

**17.** The clerk of the municipality shall notify all parties assessed within the area described in the petition, by mailing to the owner of every parcel of land assessed therein for the drainage work, a circular or postal card upon which shall be stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's land and its assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall not be less than ten days after the mailing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise is final and conclusive. R.S.O. 1950, c. 246, s. 17.



## CONSIDERATION OF REPORT

**18.** The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of its previous meeting, cause the report to be read by the clerk to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do, and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature counts as that of one person benefited in favour of the petition. R.S.O. 1950, c. 246, s. 18.

Proceedings at meeting for consideration of report

**19.** The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other reason the report or assessment should be reconsidered, may refer the report back to him for reconsideration, and the engineer may thereupon reconsider his report and assessment and shall report to the council, and the report has the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report or assessment, and it is not necessary that the engineer make any further oath or declaration. R.S.O. 1950, c. 246, s. 19.

Referring report back to engineer

## EFFECT OF WITHDRAWAL FROM PETITION

**20.** If the petition at the close of such meeting of the council contains the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within the area described to comply with section 2, then the persons who have withdrawn from the petition are on their respective assessments in the report, with 100 per cent added thereto, together with the other original petitioners on their respective assessments in the report, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for the municipality against the lands of

Withdrawing from petition

the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. R.S.O. 1950, c. 246, s. 20.

Certain  
by-laws  
confirmed

**21.** A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in the petition. R.S.O. 1950, c. 246, s. 21.

#### BY-LAWS

What by-  
laws may be  
passed by  
council

**22.** If the council of the municipality in which the lands and roads described in the petition lie is of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws:

Providing  
for work

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be.

Borrowing  
funds

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the work is to be constructed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the cost of appeal, if any, in sums of not less than \$50 each, and payable within twenty years from date, except in case of pumping and embanking drainage work the debentures for which shall be payable within thirty years from their date, with interest at such rate as the by-law may provide.

Assessing  
lands and  
roads

3. For assessing and levying, in the same manner as taxes are levied, upon the lands and roads, including roads held by joint stock companies, railway companies, private individuals, counties or county councils, to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the rate as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

Fixing time  
for paying  
assessment

4. For regulating the times and manner in which the assessments shall be paid.

Determin-  
ing property  
to be bene-  
fited

5. For determining what lands and roads will be benefited by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should

be made, subject in every case of complaint by the owner or any person interested in any lands or roads to appeal as hereinafter provided. R.S.O. 1950, c. 246, s. 22.

**23.** The by-law shall, varying with the circumstances, be according to Form 2 or to the like effect. R.S.O. 1950, c. 246, s. 23.

**24.**—(1) Before the final passing of the by-law, it shall be published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighbouring municipality, and designated by resolution of the council, with a notice of the time and place of holding the court of revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the head of the municipality and the clerk of the municipality of his intention to make application for that purpose to the referee during the six weeks next after the final passing of the by-law.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing the newspapers shall make a statutory declaration of such mailing and file it with the clerk of the municipality publishing the by-law. R.S.O. 1950, c. 246, s. 24.

**25.** The council may at its option, instead of proceeding under section 24, by resolution direct that a copy of the by-law, the notice of the sitting of the court of revision and notice as to proceedings to quash be sent by registered mail to the last known address of each of the assessed owners or their lessees or the occupants of their lands or the agents of such owners, and a statutory declaration shall be made by the person effecting such service showing the date and manner thereof and the declarant shall file the declaration with the clerk of the municipality. R.S.O. 1950, c. 246, s. 25.

**26.** If no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to or-



dain, prescribe or direct, is, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, a valid by-law. R.S.O. 1950, c. 246, s. 26.

Debentures  
for separate  
drainage  
works may  
be con-  
solidated

**27.**—(1) Where two or more works have been undertaken and the by-laws provided for by section 22 or 88 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by a consolidating by-law may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Particulars  
of by-law

(2) A consolidating by-law shall show by recitals or otherwise in respect to which separate by-laws it is passed.

By-law need  
not provide  
rate for  
payment

(3) It is not necessary that a consolidating by-law impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

Application  
of ss. 23 to  
26

(4) The provisions of sections 23 to 26 do not apply to a consolidating by-law passed under this section. R.S.O. 1950, c. 246, s. 27.

#### COURT OF REVISION

##### *Constitution and Powers*

Where coun-  
cil has not  
more than  
five mem-  
bers

**28.**—(1) Where the council of the municipality consists of not more than five members, such members are a court for the revision of the assessments for the drainage work.

Where coun-  
cil has more  
than five  
members

(2) Where the council consists of more than five members, it shall appoint five of its members to constitute the court of revision. R.S.O. 1950, c. 246, s. 28.

Oath

**29.** Every member of the court of revision shall, before entering upon his duties, take and subscribe before the clerk of the municipality the following oath, or affirmation in cases where by law affirmation is allowed:

I, ....., do solemnly swear (*or affirm*), that I will to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), that may be brought before me for trial as a member of such Court.

R.S.O. 1950, c. 246, s. 29.

Quorum

**30.**—(1) Three members of the court of revision constitute a quorum, and the majority of a quorum may decide all questions before the court.

(2) No member of the court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, except roads and lands under the jurisdiction of the municipal council. R.S.O. 1950, c. 246, s. 30. <sup>Members not to act when interested</sup>

**31.**—(1) The clerk of the municipality is the clerk of the court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the court. <sup>Clerk of court</sup>

(2) The summons to any witness issued by the clerk under this section may be in the following form: <sup>Form of summons</sup>

You are hereby required to attend and give evidence before the Court of Revision at ..... on the ..... day of ....., 19....., in the matter of the drainage work (*naming or describing work*) and of the following appeal:

Appellant (*name of*).

Clerk of the Township of .....

(3) The fees payable to any witness on an appeal to the court of revision shall be according to the scale of witness fees in the division court. R.S.O. 1950, c. 246, s. 31. <sup>Witness fees</sup>

**32.** At the time appointed, the court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the court may adjourn from time to time as required. R.S.O. 1950, c. 246, s. 32. <sup>Meeting and adjournments</sup>

**33.** The evidence of witnesses shall be taken on oath and any member of the court may administer an oath to any party or witness. R.S.O. 1950, c. 246, s. 33. <sup>Evidence</sup>

**34.** If any person summoned to attend the court of revision as a witness fails, without good and sufficient reason, to attend, having been tendered the proper witness fees, he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the proper division court, or in any way in which penalties incurred under any by-law of the municipality may be recovered. R.S.O. 1950, c. 246, s. 34. <sup>Witness failing to attend when summoned</sup>

#### *Procedure for Trial of Complaints*

**35.** Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the assessment of his own land or of any roads of the municipality, or of the undercharge of any other lands or of any road in the municipality, or that lands or roads that should have been assessed have been omitted from the assessment, may <sup>Who may appeal</sup>

personally, or by his agent, give notice in writing to the clerk of the municipality that he considers himself aggrieved for any or all such causes. R.S.O. 1950, c. 246, s. 35.

Time for  
holding  
court of  
revision  
and for  
appeals  
thereto

**36.** The trial of complaints shall be had in the first instance by and before the court of revision of the municipality in which the lands and roads assessed are situate, and the first sitting of the court shall be held pursuant to notice on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be, and notice of the first sitting of the court shall be published or served with the by-law, but the court may adjourn from time to time as occasion may require, and all notices of appeal shall be served on the clerk of the municipality at least ten days prior to the first sitting of the court; but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. R.S.O. 1950, c. 246, s. 36.

Form of  
notice of  
complaint

**37.** If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the head of the municipality, which notice shall be in the form following or to the like effect:

Take notice that you are required to attend before the Court of Revision at ..... on the ..... day of ....., 19....., in the matter of the following appeal:

Appellant (*name of*).

Subject—That you are assessed too low (*or as the case may be*) for drainage work (*naming the drainage work*).

To .....

(Signed)

Clerk

R.S.O. 1950, c. 246, s. 37.

Serving  
notice

**38.** The notice mentioned in section 37 shall be sent by letter addressed to such person at his post office address or at his last known address, at least seven days before the first sitting of the court. R.S.O. 1950, c. 246, s. 38.

Entry of  
appeals

**39.** The clerk of the court shall enter the appeals on a list in the order in which they are received by him, and the court shall proceed with the appeals in the order, as nearly as may



be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1950, c. 246, s. 39.

40. Such list may be in the following form:

Form of list  
of appeals

Appeals from the assessment of the engineer on .....  
drainage work, to be heard at the Court of Revision to be held at  
....., commencing at 10 o'clock in the forenoon on the  
..... day of ....., 19.....

Appellant. Omitted or wrongly assessed. Matter complained of.		
A.B.....	Self.....	Overcharge for benefit.
C.D.....	Self.....	Overcharge for outlet.
E.F.....	Self.....	Overcharge for injuring.
G.H.....	J.R.....	Undercharge for benefit.
L.M.....	N.O.....	Undercharge for outlet.
P.Q.....	R.S.....	Undercharge for injuring.
T.U.....	V.W.....	Wrongly omitted.
X.Y.....	Self.....	Wrongly assessed.
etc.	etc.	etc.

R.S.O. 1950, c. 246, s. 40.

41. Where any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the court of revision or judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. R.S.O. 1950, c. 246, s. 41.

Court of  
revision may  
take into  
considera-  
tion prior  
assess-  
ments

42. When the ground of complaint is that lands or roads are assessed too high, and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the court or judge shall adjourn the hearing of the appeal for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which the hearing is adjourned, and the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the court or judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the assessment appealed against is reduced, if any, may be distributed *pro rata* over the assessments of its own class or otherwise so as to do justice to all parties. R.S.O. 1950, c. 246, s. 42.

Adjourn-  
ment of  
court to  
notify per-  
sons affected  
by altera-  
tion of  
assessment

43. The clerk shall by registered mail, immediately after the close of the court, notify all appellants of the result of their appeals and also of the date of the closing of the court of revision. R.S.O. 1950, c. 246, s. 43.

Notice of  
result of  
appeal

*Appeals from the Court of Revision*

Appeal to  
county  
judge

**44.** An appeal from the court of revision lies to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court to hear or decide an appeal. R.S.O. 1950, c. 246, s. 44.

Time for  
giving notice  
of appeal

**45.** The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality, within ten days after the date of the closing of the court of revision, a written notice of his intention to appeal to the judge. R.S.O. 1950, c. 246, s. 45.

Clerk to  
notify judge  
and judge to  
fix time and  
place for  
hearing  
appeals

**46.** The clerk shall immediately after the time limited for filing appeals forward a list of the appeals to the judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding the hearing at the town hall or other place of meeting of the council of the municipality from the court of revision of which the appeal is made, unless the judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. R.S.O. 1950, c. 246, s. 46.

Notice to  
persons  
appealed  
against

**47.** The clerk shall thereupon give notice to all parties appealed against in the same manner as is provided for giving notice on a complaint to the court of revision, but, in the event of failure by the clerk to give the required notice or to have the notice given within proper time, the judge may direct notice to be given for some subsequent day upon which he may try the appeals. R.S.O. 1950, c. 246, s. 47.

Time for  
giving  
judgment

**48.** At the court so held, the judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than thirty days after the hearing. R.S.O. 1950, c. 246, s. 48.

Clerk of  
court

**49.—(1)** The clerk of the municipality is the clerk of such court, and shall record the proceedings thereof and has the like powers as the clerk of a division court as to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the judge, for the attendance of any person as a witness before him.

Witness  
fees

**(2)** The fees to be allowed to witnesses upon an appeal to the judge under this Act shall be those allowed to witnesses in an action in the division court. R.S.O. 1950, c. 246, s. 49.

Powers of  
judge on  
appeal

**50.** In all proceedings before the judge, he possesses all such powers for compelling the attendance of and for the examination on oath of all parties and all other persons whom-

soever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the division court or county court. R.S.O. 1950, c. 246, s. 50.

*Fees and Costs of Appeals*

**51.** The costs of any proceeding before the court of revision, or before the judge, shall be paid or apportioned between the parties in such manner as the court or judge thinks fit, and the same shall be enforced when ordered by the court of revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the judge, by execution to be issued as the judge may direct, either from the county court or any division court within the county in which the municipality is situate. R.S.O. 1950, c. 246, s. 51.

Apportionment of costs, enforcing payment

**52.** The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the division court for such costs, and in cases where execution issues, the costs thereof as in the like court, and of enforcing the same, may also be collected thereunder. R.S.O. 1950, c. 246, s. 52.

What costs may be awarded, taxation of

**53.** The judge is entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the court of revision, \$5 per day and disbursements necessarily incurred. R.S.O. 1950, c. 246, s. 53.

Fees and expenses of judge

**54.** The decision of the judge is final and conclusive. R.S.O. 1950, c. 246, s. 54.

Decision to be final

**55.** Any change in the assessment of the engineer or surveyor made by the court of revision or by the judge in appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the court of revision or judge. R.S.O. 1950, c. 246, s. 55.

Clerk to alter assessments

ISSUE OF DEBENTURES

**56.** Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount payable, in lieu of the interest payable annually in respect of

Debentures may include principal and interest in one sum



each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. R.S.O. 1950, c. 246, s. 56.

Payment of assessment before debentures issued

**57.** Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. R.S.O. 1950, c. 246, s. 57.

Informalities not to invalidate debentures

**58.** No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the debentures not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. R.S.O. 1950, c. 246, s. 58.

When debentures to be valid and binding to extent of amount advanced

**59.** Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work are good in the hands of the purchaser, and are binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the debentures, provided no application to quash is made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. R.S.O. 1950, c. 246, s. 59.

#### WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY

Assessment of lands that are benefited

**60.—(1)** Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, that will, in the opinion of the engineer or surveyor, be benefited by the work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

When work not deemed out of initiating municipality

**(2)** A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. R.S.O. 1950, c. 246, s. 60.

**61.** Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of the owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality. R.S.O. 1950, c. 246, s. 61.

Where area lies on either side of boundary road

**62.** Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 10, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing the work as he may deem just. R.S.O. 1950, c. 246, s. 62.

Construction of drainage work on road allowance

#### WORK CONTINUED INTO ANOTHER MUNICIPALITY

**63.** Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet, and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just, and in his report thereon he shall estimate separately the cost of the work within each municipality and upon the road allowances or other boundaries. R.S.O. 1950, c. 246, s. 63.

Continuing work beyond the limits of municipality

**64.** Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in section 63. R.S.O. 1950, c. 246, s. 64.

Assessing land in neighbouring municipality when work does not enter same

## SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES

Council of  
initiating  
municipality  
to  
notify other  
municipalities  
to  
be affected

**65.** The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they are binding on each and every corporation whose council is so served, and the council of the initiating municipality is entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. R.S.O. 1950, c. 246, s. 65.

Municipality  
notified to raise  
and pay  
over its proportion  
of  
cost

**66.** The council of the municipality so served shall, in the same manner as nearly as may be and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 2, pass a by-law or by-laws to raise and shall raise and pay over to the treasurer of the initiating municipality within four months from such service the sum that may be named in the report as its proportion of the cost of the drainage work or, in the event of an appeal from the report, the sum that may be determined by the referee or the Court of Appeal, and such council shall hold the court of revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. R.S.O. 1950, c. 246, s. 66.

Appeal to  
referee from  
report of  
engineer

**67.**—(1) The council of any municipality served as provided by section 65 may, within six weeks after such service upon its head, appeal to the referee from the report, plans, specifications, assessments and estimates of the engineer or surveyor by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor, with a written notice of appeal setting forth therein the reasons for such appeal.

Grounds  
of appeal

(2) The reasons for appeal that shall be set out in such notice may be the following or any of them,

(a) where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,

(i) that the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated,



- (ii) that the scheme does not provide for a sufficient outlet,
- (iii) that the course of the drainage work, or any part thereof, should be altered,
- (iv) that the drainage work should be carried to an outlet in the initiating municipality or elsewhere;

(b) in any case not otherwise provided for,

- (i) that a petition has been received by the council of the appealing municipality, as provided by section 2, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition,
- (ii) that the appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality,
- (iii) that the initiating municipality should not be permitted to do the work within the limits of the appealing municipality,
- (iv) that the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. R.S.O. 1950, c. 246, s. 67.

**68.**—(1) Upon an appeal under section 67, the referee shall <sup>Powers of referee on appeal</sup> hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality assessed for the drainage work, and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just.

(2) The order of the referee upon such appeal is subject <sup>Appeal to Court of Appeal</sup> to appeal to the Court of Appeal as in other cases, and the decision of such Court is final and conclusive as to all corporations affected thereby.

Abandon-  
ment of  
work by  
initiating  
municipality

(3) The council of the initiating municipality may, by resolution passed within thirty days after the decision of the referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the referee or the Court of Appeal may seem just. R.S.O. 1950, c. 246, s. 68.

#### AMENDING BY-LAWS

Amendment  
of by-law  
when insuffi-  
cient funds  
provided

**69.**—(1) Any by-law heretofore or hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and that has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

When lands  
and roads in  
another  
municipality  
assessable

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates, and the council of any municipality so served has the same right of appeal to the referee as to the improper expenditure or illegal or other application of the drainage money already raised and is subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

Amendment  
of by-law  
that provides  
more than sufficient  
funds and distribution  
of surplus

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work acted upon by the completion of the work that provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the

assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work, and in case such assessment upon any land has been commuted or anticipated by payment in full, then payment shall be made to the owner of such lands as shown by the last revised roll of the municipality in all respects as if such assessment had not been so commuted or anticipated.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 73. R.S.O. 1950, c. 246, s. 69.

Amendment  
of by-law  
not provid-  
ing suffi-  
cient funds

Issuing de-  
bentures for  
completion  
of county  
drainage  
works com-  
menced  
before  
passing of  
57 V. c. 56

**70.** It is in the discretion of the council whether an amending by-law passed under any of the provisions of section 69 shall be published or not, and the provisions of *The Municipal Drainage Aid Act* apply to any debentures issued under the authority of that section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant Governor in Council. R.S.O. 1950, c. 246, s. 70.

Publication  
of amending  
by-laws  
R.S.O. 1960,  
c. 253

#### MAINTENANCE OF DRAINAGE WORK

**71.** Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality,

Mainten-  
ance of work  
not con-  
tinued into  
another  
municipality

- (a) if no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of the drainage work; or
- (b) if lands or roads in any other municipality or roads between two or more municipalities are in any way



assessed for the construction of the drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,

until such assessment or proportion, as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the referee. R.S.O. 1950, c. 246, s. 71.

Mainten-  
ance of  
drainage  
work pass-  
ing into  
another  
municipi-  
pality

**72.**—(1) Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under this Act, which is continued into or through more than one municipality or which is commenced by the initiating municipality on a road allowance adjoining such municipality and is continued thence into the lands of any other municipality, shall after its completion be maintained,

- (a) by the initiating municipality from the point of commencement of the work in the municipality or upon such road allowance to the point at which the work enters the lands or roads of another municipality; and
- (b) by the last-mentioned municipality and by every other municipality through or into which the work is continued from the point at which the work enters the lands or roads of the municipality,
  - (i) to an outlet in the municipality or on a road allowance adjoining the municipality, or
  - (ii) to the point at which the work enters the lands or roads of another municipality, as the case may be.

Cost of  
maintenance

(2) Such maintenance shall be at the expense of the lands and roads in any way assessed for the construction of the work and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of the arbitrators or order of the referee until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the work or in appeal therefrom by the order of the referee.

(3) In clauses *a* and *b* of subsection 1, "lands or roads" does not include any road, stream or drainage work forming a boundary between municipalities. R.S.O. 1950, c. 246, s. 72. Interpretation

**73.**—(1) Where a drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under this Act. Maintenance of drains constructed by government or under county by-laws

(2) Any drainage work constructed before such day under such authority that continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the referee, until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the referee. When such drains extend into another municipality

(3) A drainage work that commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. R.S.O. 1950, c. 246, s. 73. Where work deemed to commence

**74.**—(1) The council of any municipality undertaking the repair of any drainage work under section 71, 72 or 73 shall, before commencing the repairs, serve upon the head of any municipality liable to contribute any portion of the cost of Service of by-law on municipality liable for contribution, and appeal

such repairs under this Act a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work, and the council of any municipality so served may, within 30 days thereafter, appeal from such by-law to the referee on the ground that the amount assessed against the lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work, and the referee on such appeal may alter, amend or confirm such by-law, or may direct that the by-law shall not be passed as to him may seem just, and his order upon such appeal is subject to appeal to the Court of Appeal, and the decision of that court is final and conclusive as to all corporations affected thereby.

Council  
served to  
furnish  
amount  
required

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall within that period raise and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the referee. R.S.O. 1950, c. 246, s. 74.

Varying  
original  
assessments  
for main-  
tenance

**75.—**(1) The council of any municipality liable for contribution to a drainage work in connection with which conditions have changed or circumstances have arisen such as to justify a variation of the original assessment in respect of the drainage work may apply to the referee upon an application, of which notice has been given to the head of every other municipality interested, for permission to procure the report of an engineer or surveyor varying the original assessment, and in the event of such permission being given such council may procure the report of an engineer or surveyor as aforesaid and pass a by-law adopting the report, but if all the lands and roads assessed or intended to be assessed lie within the limits of one municipality, the council of that municipality may procure and adopt such report without such permission; but no report providing for the variation of an original assessment is valid unless the engineer or surveyor has been instructed by a resolution of the council to make such variation before he enters upon his duties in respect thereof.

Proceedings  
on report  
of engineer

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.



(3) Any council served with a copy of such report and assessment may appeal to the referee from the finding of the engineer as to the portion of the cost of the work for which the municipality is liable, and the proceedings on such appeal shall be the same as in other cases of appeals to the referee under this Act. Appeal from report of engineer

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a court of revision for the trial of any appeals in the manner hereinbefore provided. Appeal to court of revision

(5) Such assessment as so varied shall thereafter, until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby. R.S.O. 1950, c. 246, s. 75. Basis of future assessments

#### IMPROVING WITHOUT REPORT

**76.** The council of any municipality whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of the municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the work to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800, and in every case where the cost of the improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 77. R.S.O. 1950, c. 246, s. 76. Deepening, widening or extending without report of engineer

#### IMPROVING WITH REPORT

**77.—(1)** Wherever, for the better maintenance of any drainage work constructed under this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of the drainage work, or to make a new outlet for the whole or any part of the work, or to construct a tile drain under the bed of the whole or any portion of the drainage work as ancillary thereto, or to construct, reconstruct or extend protective banks, walls, dykes and other protective works as ancillary to Improving upon examination and report by engineer

the drainage work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of the municipality or of any of the municipalities whose duty it is to maintain the drainage work may, without the petition required by section 2 but on the report of an engineer or surveyor appointed by them to examine and report on the same, undertake and complete the change of course, new outlet, tile drain, protective works, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor has for such change of course, new outlet, tile drain, protective works, improvement, extension, alteration or covering all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under this Act.

Summary  
appeal to  
referee with  
respect to  
protective  
works

(2) Where protective banks, walls, dykes or other protective works provided for in subsection 1 are to be constructed, reconstructed or extended to prevent damage to any lands or roads, any owner affected by the drainage work to which such protective works are ancillary, if dissatisfied with the report of the engineer by reason of the protective works being made ancillary to the drainage work or of the whole or any part of the cost thereof being assessed and charged as part of the drainage work or of any assessments and charges or the apportionment thereof set forth in the report, may appeal therefrom to the referee within the time and in the manner provided in subsection 10 of section 8, and the referee may hear and determine the appeal according to that subsection and his decision is final.

Application  
of section

(3) This section applies to the better maintenance of a natural stream, creek or watercourse that has been artificially improved by local assessment or otherwise, and to any drainage work constructed under *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, in the same manner, to the same extent, and by the same proceedings as are hereby made applicable to the better maintenance of a drainage work wholly artificial.

Future  
mainte-  
nance

(4) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, until such assessment is varied or otherwise determined as provided by section 75.

Report of  
engineer as  
to work  
under ss. 71,  
72 and 73  
not essential

(5) Nothing in this section or in section 76 shall be construed as requiring a municipal council to procure the report of an engineer before undertaking any work in pursuance of sections 71, 72 and 73. R.S.O. 1950, c. 246, s. 77.

## REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS

**78.**—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds or out of funds raised by a local assessment under a by-law that is afterwards found to be illegal or that does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 2, on the report of an engineer or surveyor, pass a by-law for maintaining the work at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under this Act.

Assessment  
for repair  
of work  
constructed  
out of gen-  
eral funds

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended or provided with a new outlet for the whole or any part thereof. R.S.O. 1950, c. 246, s. 78.

Deepening  
of drain so  
constructed

**79.**—(1) Where an engineer or surveyor is directed by the council to make an examination and report under section 77 or subsection 2 of section 78, and upon making such examination finds that the cost of changing the course of, making a new outlet for or otherwise improving, extending or altering the work so that it will be of sufficient capacity to carry off the water to a sufficient outlet will exceed the amount of injury caused or likely to be caused to low-lying lands along the course of or below the termination of the drainage work, then in lieu of such change of course, new outlet, improvement, extension or alteration or in lieu of any work, he may in his report estimate and provide for the compensation of the owners of such lands for any injuries sustained or likely to be sustained by reason of no sufficient capacity or sufficient outlet being provided, and he shall in his report determine the amount to be paid to the respective owners of such low-lying lands in respect of such injuries.

Assessing  
damage for  
overflow  
instead of  
repairing  
drain on  
report

(2) Any owner of such low-lying lands, if dissatisfied with the provision for compensation made by the report of the engineer, may appeal therefrom to the referee in manner provided by subsection 10 of section 8, and the referee may hear and determine such appeal in the manner provided by that subsection. R.S.O. 1950, c. 246, s. 79.

Appeal to  
referee



## MANDAMUS TO COMPEL REPAIR

Power to  
compel  
repairs by  
mandamus

**80.**—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, is compellable by mandamus issued by the referee or other court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 71 to 78, or such of the said powers as to the referee or court may seem proper, and is also liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected.

Appeal  
with  
leave

(2) Any party to such proceedings may by leave of the referee or of the Court of Appeal or a judge thereof, appeal to the Court of Appeal from the decision or judgment of the referee.

Time  
limitation

(3) A mandamus against the municipality shall not be moved for until after the lapse of thirty days from the date of the service of the notice.

Liability of  
municipality  
for  
damages  
caused by  
non-repair

(4) Notwithstanding anything in subsection 1, the municipality whose duty it is to maintain and keep in repair a drainage work shall not become liable in pecuniary damages to any owner of land whose property is injuriously affected by reason of the non-repair of the drainage work, until after service by or on behalf of such owner of notice in writing upon the reeve or clerk of the municipality, describing with reasonable certainty the alleged lack of repair of the drainage work.

No liability  
where drain  
blocked by  
snow or ice

(5) The corporation whose duty it is to maintain and keep in repair a drainage work is not liable in damages for any injury caused by reason of a drain on the highway being blocked by snow or ice and overflowing the lands of any person without negligence on the part of the corporation. R.S.O. 1950, c. 246, s. 80.

## REPAIRS BY OWNERS

Duty of  
owners as  
to cleaning  
out and  
maintaining  
banks

**81.**—(1) The council of any municipality may pass a by-law or by-laws providing that the owner of every lot or part of a lot, assessed for benefit, shall clean out the drain and keep it free from obstructions that may hinder or impede the free flow of the water, and remove therefrom all weeds and brush-wood and keep the banks of the drain in order, to the extent and in manner or proportion and for the distance determined by the engineer in his report, and, where any such owner makes default in so doing for thirty days after notice in writing from the council of the municipality, the work may be done by the council or by any officer appointed by it for the purposes of

the drain, and the cost thereof, after notice of the same to the person so making default and liable therefor, shall be placed on the collector's roll against the lands of such owner and shall be chargeable against such lands and be collected in the same manner as other municipal or drainage assessments.

(2) The engineer or surveyor shall in his report state the portion of the drain already or thereafter to be constructed that shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in good order as prescribed by this section. R.S.O. 1950, c. 246, s. 81.

**82.**—(1) When any drainage work heretofore or hereafter constructed becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid and, if not so removed within the time specified in the notice, the council or the inspector shall forthwith cause the same to be removed.

(2) The council may, by by-law, appoint an inspector for the purposes mentioned in subsection 1, and shall in the by-law regulate the fees or other remuneration to be received by him.

(3) If the cost of removing the obstruction is not paid to the municipality by the owner or occupant of the lands liable, forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with 10 per cent added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the judge by the owner or occupant, in respect of the cost of the work. R.S.O. 1950, c. 246, s. 82.

**83.** The council of any municipality may by by-law direct that the inspector appointed under section 82 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible, and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of the drainage work and in the proportion fixed by the by-law authorizing the drainage work, but it is not necessary to assess and levy the amount so charged more than once in every five

years after the passing of such first-mentioned by-law, unless in the meantime the total expense incurred exceeds the sum of \$1,000. R.S.O. 1950, c. 246, s. 83; 1954, c. 59, s. 2.

#### CUTTING EMBANKMENTS, BANKS, ETC.

Penalty for injury to embankments, etc.

**84.** Every person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$100 and is also liable to imprisonment for a term of not more than six months, and in default of payment of such fine is further liable to imprisonment for a term of not more than three months. R.S.O. 1950, c. 246, s. 84.

#### REMOVING ARTIFICIAL OBSTRUCTIONS

Removal of dams on construction of work

**85.** Where, in the construction of any drainage work, any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council has power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement as may be determined by the referee, to remove the same wholly or in part, and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. R.S.O. 1950, c. 246, s. 85.

#### OPERATING PUMPING WORKS

Appointment of commissioners for pumping works

**86.**—(1) For the better maintenance of drainage work by embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating the drainage work and for keeping the embankment thereof in repair as may be set forth in the by-law appointing them, and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under this Act.



(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipment belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. R.S.O. 1950, c. 246, s. 86.

Powers which may be granted to commissioners

**87.** Upon the petition of two-thirds of the persons interested in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate it, in the same manner and to the same extent as if such drainage work had been constructed under this Act, but at the cost of the lands and roads liable to be assessed for the work. R.S.O. 1950, c. 246, s. 87.

Assuming drainage works constructed by private persons

#### DEBENTURES FOR MAINTENANCE

**88.**—(1) Where the maintenance of any drainage work is so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

Power to issue debentures for cost of maintenance

(2) Where such debentures are issued for work done under section 77, the debentures shall be payable within twenty years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision the debentures shall be payable within seven years from the date thereof.

Time at which debentures to be payable

(3) *The Municipal Drainage Aid Act* applies to any debentures issued under any by-law passed under this section that has before its final passing been published or of which the rate-payers have been notified in the manner provided by this Act or which has after its passing been promulgated under *The Municipal Act*. R.S.O. 1950, c. 246, s. 88.

Application of R.S.O. 1960, cc. 253, 249

#### PAYING BACK ADVANCES

**89.** Any money that has been or hereafter is advanced by the council of any municipality out of its general funds for the purposes of any drainage work in anticipation of the levies

Repayment of advances from general funds on receipt of assessments

and collections therefor shall be repaid into the general funds of the municipality as soon as the money first derived from the assessment is collected. R.S.O. 1950., c. 246, s. 89.

#### MUNICIPALITY ASSUMING AWARD DRAINS

Power to  
bring drains  
constructed  
under R.S.O.  
1960, c. 109  
within this  
Act

**90.** Upon a petition presented to the council of any municipality as provided for in section 2 having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for assessment in work, signed by a majority of the owners interested in such ditch or drain, the council may assume the same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under this Act, and the passing of the by-law under this Act is in every such case a bar to any further proceedings upon the award or under the Act upon which the award is based. R.S.O. 1950, c. 246, s. 90.

#### COST OF REFERENCE AND INCIDENTAL EXPENSES

Expenses to  
be deemed  
part of the  
cost of the  
work

**91.** Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of the work and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. R.S.O. 1950, c. 246, s. 91.

#### LANDLORD AND TENANT

Tenant's  
covenant to  
pay taxes,  
when to  
include  
drainage  
assess-  
ments

**92.** Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands does not include the charges and assessments for any drainage work unless the agreement in express terms so provides; but in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for drainage work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. R.S.O. 1950, c. 246, s. 92.

#### DRAINAGE REFEREES

Referees,  
appoint-  
ment

**93.**—(1) The Lieutenant Governor in Council from time to time may appoint two referees for the purpose of the drain-

age laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act and any other Acts and parts of Acts on the same subject. R.S.O. 1887, c. 36

(2) The referees are officers of the Supreme Court. To be officers of Supreme Court

(3) They shall be barristers of at least ten years standing at the Bar of Ontario. Qualification

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*. Tenure of office  
R.S.O. 1960, c. 197

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter. Not to practise

(6) They shall each be paid a salary of such amount as may be appropriated by the Legislature for the purpose, not exceeding \$3,500 a year, to be paid monthly, together with their reasonable travelling expenses. Salary

(7) One of such referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other referee shall exercise all rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in Ontario. Jurisdiction

(8) Where either of the referees is absent or owing to illness or other cause is unable to act, or where the office of either referee is vacant, the remaining referee shall act and has jurisdiction as referee over the whole Province until the vacancy is filled or the other referee is able to act. Absence or illness  
R.S.O. 1950, c. 246, s. 93.

**94.** The Lieutenant Governor in Council instead of appointing referees under section 93 may designate the Ontario Municipal Board as the referee. Municipal Board may be referee  
R.S.O. 1950, c. 246, s. 94.

**95.—**(1) The referee has the powers of an official referee under *The Judicature Act* and *The Arbitrations Act* and of arbitrators under any former enactments relating to drainage works. Referee to have powers of an official referee under R.S.O. 1960, co. 197, 18

(2) In respect to all applications and proceedings before him or that may come before him under this Act or any former Act relating to drainage works, he has the powers of a judge of the Supreme Court including the production of books Additional powers



and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings, and he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties, and he may also grant an injunction or a mandamus in any matter before him under this Act.

Power to determine validity of proceedings and amend report

(3) The referee has power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question, and, with the engineer's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the court of revision or a county judge. R.S.O. 1950, c. 246, s. 95.

Interlocutory applications

**96.** All interlocutory applications for any of the purposes mentioned in subsection 2 of section 95 shall be made to the referee and his order thereon is final and conclusive. R.S.O. 1950, c. 246, s. 96.

#### APPEALS FROM ASSESSMENT

Notice of appeal from assessment to be filed

**97.** A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the clerk of the county court of the county or union of counties in which the drainage work commenced. R.S.O. 1950, c. 246, s. 97.

Amendment of by-law to carry out decision of referee

**98.** The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to incorporate and carry into effect the decision or report of the referee or such decision or report as varied on appeal, as the case may be. R.S.O. 1950, c. 246, s. 98.

Application to set aside drainage by-law, report, etc.

**99.—(1)** Subject to section 100, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an engineer, resolution of a

council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined, as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under this Act or consequent thereon, or by reason of negligence, or for a mandamus or injunction, shall be made to and shall be heard and tried by the referee, who shall hear and determine the same and give his decision and his reasons therefor.

(2) If the referee thinks that any proceeding under sub-section 1 could be more conveniently heard and tried by a Trial by county judge county judge he may in his discretion request the county judge to hear and try such matter or proceeding, and any county judge acting upon such request has all the jurisdiction of the referee under this Act.

(3) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence, or by way of compensation or otherwise, or for a mandamus or an injunction, under this section, shall be instituted by serving ten clear days notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned. Proceedings to be instituted by notice

(4) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose. Notice to be filed in county court

(5) All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not less than five days before the return day of the motion. Affidavits to be filed before motion

(6) Subject to section 100, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided. Application not to be made otherwise

(7) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the division court scale so far as the same is applicable. Costs on claims not exceeding \$60 on division court scale

(8) Where the amount awarded is upon a claim for damages by reason of the non-repair of a drainage work, the costs allowed shall be on the division court scale. R.S.O. 1950, c. 246, s. 99. Costs in award of damages for non-repair

**100.**—(1) Where an action is brought or is pending and the court in which the same is brought or is pending or a judge thereof is of opinion that the relief sought therein is properly Actions may be transferred to referee

the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the referee on such terms as may be deemed just, and the referee shall thereafter give directions for the continuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion.

Application  
of section

(2) This section applies only where the action is brought within the period limited by this Act for taking proceedings on notice. R.S.O. 1950, c. 246, s. 100.

Decision of  
Court of  
Appeal to be  
final

**101.** The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, is subject to appeal to the Court of Appeal and its decision thereon is final, conclusive and binding upon all parties to the application or other proceeding. R.S.O. 1950, c. 246, s. 101.

Assessing  
damages  
and costs  
payable by  
municipalities

**102.**—(1) Save as provided by subsections 2, 3 and 4 all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

Municipality in  
default may  
be ordered  
to pay  
damages  
and costs

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the referee or court may direct that the whole or any part of such damages and costs shall be borne by the municipality and be payable out of the general funds thereof.

In cases of  
settlement

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by the advice of counsel, the damages and costs payable under the terms of the settlement by any municipality shall be borne and paid as directed by the referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the referee shall have regard to the provisions of subsection 2.



(4) Where in the opinion of the referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the drainage work, the referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter be assessed, levied and collected as if it were part of the actual cost of the drainage work. R.S.O. 1950, c. 246, s. 102.

#### CROSSING RAILWAY LANDS

**103.**—(1) When by the report of an engineer or surveyor, drainage works are proposed to be carried upon, along, under or across the lands of any railway company, the council initiating the scheme shall serve the railway company with a copy of the report, plans, specifications, assessments or other estimates of the engineer or surveyor of the proposed works, and the company so served shall at any time within three weeks after such service have a right to appeal to the referee upon any question arising in connection with that portion of the drain or drainage work upon, along, under or across its railway or lands.

(2) Upon any appeal under subsection 1, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from and make such order in the premises as may be deemed just.

(3) The costs of such appeal are in the discretion of the referee. R.S.O. 1950, c. 246, s. 103.

#### PROCEEDING WITH REFERENCE

**104.**—(1) The referee at any time after an appeal or reference is made to him as hereinbefore provided, may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed.

(2) The clerk of the county court is the clerk of the court of the referee, and shall take charge of and file all the exhibits,

and is entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court.

Fees of clerk

(3) The clerk is entitled to such fees as the referee may direct, not exceeding \$4 per day for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct.

To be paid in money

(4) The fees payable to the clerk shall be paid in money and not in stamps.

Referee's clerk

(5) In the absence of the clerk of the county court the referee may appoint the referee's clerk or some other person to act as clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed while so acting has the same power and is entitled to the same fees as the clerk of the county court would have and be entitled to if personally present.

Subpoenas

(6) Subpœnas for the attendance of witnesses at the hearing, tested in the name of the referee, may be issued by the clerk of the county court of the county in which the case is to be heard.

Shorthand writer

(7) Two or more shorthand writers may from time to time be appointed by the Lieutenant Governor in Council to report hearings or trials before the referee, and every such officer shall be deemed to be an officer of the Supreme Court, and shall be paid in the same manner as shorthand writers in the Supreme Court are paid and the sections of *The Judicature Act* respecting shorthand writers apply to any shorthand writer appointed under this Act. R.S.O. 1950, c. 246, s. 104.

R.S.O. 1960, c. 197

When referee proceeds on view or special knowledge

**105.** When the referee proceeds partly on view or on any special knowledge or skill possessed by him, he shall put in writing a statement of the same sufficiently full to allow the Court of Appeal to form a judgment of the weight which should be given thereto, and he shall state as part of his reasons the effect given by him to such statement. R.S.O. 1950, c. 246, s. 105.

Clerk to forward notice of filing

**106.** The decision or report of the referee with the evidence, exhibits, and statement, if any, of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the clerk of the county court, and notice of the filing shall forthwith be given by the clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. R.S.O. 1950, c. 246, s. 106.

**107.** A copy of the decision or report certified by the referee or clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. R.S.O. 1950, c. 246, s. 107.

Report to be  
sent to clerk  
of each  
municipality  
interested

**108.** The decision or report of the referee shall be in the form of an order for judgment and may be delivered as decisions by the judges of the Supreme Court are, and need not be in the form of a report, and unless appealed from to the Court of Appeal, as herein provided, judgment may be entered in the proper office without any further or other application or order. R.S.O. 1950, c. 246, s. 108.

Decision to  
be in form  
of order for  
judgment

**109.** When an appointment is given by the referee for the hearing of any matter under this Act in any municipality wherein a court house is situated, he has in all respects the same authority as a judge of the Supreme Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. R.S.O. 1950, c. 246, s. 109.

Use of court  
house

**110.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the referee, be paid be the county or counties interested, like fees as for similar services at the sittings of the Supreme Court for the trial of causes. R.S.O. 1950, c. 246, s. 110.

Sheriffs, etc.  
to assist  
referee,  
fees there-  
for

**111.** Except as otherwise provided in this Act and subject to the provisions thereof, the rules and practice for the time being of the Supreme Court shall be followed so far as they are applicable. R.S.O. 1950, c. 246, s. 111.

Rules and  
practice

**112.** In cases brought before the referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only be written out at length by the shorthand writer if required by the referee or by any parties to the reference, and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant Governor in Council. R.S.O. 1950, c. 246, s. 112.

Evidence  
taken before  
referee need  
not be filed  
or written  
out

**113.** Costs shall be taxed by the referee, or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed, or by any taxing officer of the Supreme Court. R.S.O. 1950, c. 246, s. 113.

Taxation  
of costs



Fees, how  
to be paid

**114.** Fees shall be paid in stamps or otherwise in the same manner as in the case of other proceedings in such courts respectively, until other provision is made in that behalf by competent authority. R.S.O. 1950, c. 246, s. 114.

Fees on  
trial

**115.** To provide a fund for or towards the payment of the referee's salary and other expenses, there shall be further payable a sum which shall be determined by the referee and mentioned in his decision or report or in a subsequent report; but such sum shall not exceed the rate of \$4 a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the referee directs. R.S.O. 1950, c. 246, s. 115.

Reports to  
be stamped

**116.** The decision or report of the referee shall not be given out until stamped with the necessary stamps. R.S.O. 1950, c. 246, s. 116.

Time for  
appealing  
to Court  
of Appeal

**117.**—(1) The decision or report of the referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act is binding and conclusive upon all parties thereto, unless appealed from to the Court of Appeal within one month after the filing thereof, or within such further time as the referee or the Court of Appeal or a judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the referee is final.

Procedure

(2) The decision or report may be appealed against to the Court of Appeal in the same manner as from a decision of a judge of the Supreme Court sitting in court. R.S.O. 1950, c. 246, s. 117.

#### RULES AND TARIFF OF COSTS

Rules by  
Rules  
Committee

**118.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee has the same authority to make general rules with respect to proceedings before the referee and appeals from him as it has with respect to proceedings under *The Judicature Act*, and section 111 of that Act applies thereto. R.S.O. 1950, c. 246, s. 118.

R.S.O. 1960,  
c. 197

Referee may  
make rules

**119.** Subject to any such general rules the referee has power, with the approval of the Lieutenant Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for. R.S.O. 1950, c. 246, s. 119.

**120.** Until other provisions are made under sections 118 and 119, the tariff of the county court is the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the referee has the power to fix counsel fees. R.S.O. 1950, c. 246, s. 120.

Tariff of  
county court  
adopted  
until rules  
made

## FORM 1

(Section 3)

## FORM OF PETITION FOR DRAINAGE WORK

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of ..... in the county of ..... to be the owners of the lands to be benefited within the township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the township and being described as follows: lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots numbered 4 to 12 inclusive in the third concession; the side-road between lots numbered 7 and 8 in the first concession, and the road allowance between concessions 1 and 2 and between 2 and 3 (*as the case may be, or describing the area by metes and bounds*), may be drained by means of:

1. A drain or drains.
2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse, known as (*name or other general designation*).
3. Lowering the water of lake ..... or the pond known as (*name or other general designation*), (*or by any or all of said means*).

And your petitioners will ever pray:

R.S.O. 1950, c. 246, Form 1.

## FORM 2

(Section 23)

## FORM OF BY-LAW

A by-law to provide for drainage work in the ..... of ..... in the county of ..... and for borrowing on the credit of the municipality, the sum of ..... for completing the same (*or the sum of ..... the proportion to be contributed by said municipality for completing the same*).

Provisionally adopted the ..... day of ....., 19.....

Whereas the majority in number of the resident and non-resident owners (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll, of the property hereinafter set forth to be benefited by drainage work (*as the case may be*) have petitioned the council of the ..... of ..... praying that (*here set out the purport of the petition, describing generally the lands and roads to be benefited*).

And whereas, thereupon the council has procured an examination, to be made by ..... being a person competent for such purpose, of the area proposed to be drained and the means suggested for the drainage thereof, and of other lands and roads liable to assessment



under *The Municipal Drainage Act*, and has also procured plans, specifications and estimates of the drainage work to be made by..... and an assessment to be made by him of the lands and roads to be benefited by such drainage work, and of other lands and roads liable for contribution thereto, stating as nearly as he can the proportion of benefit, outlet liability and injuring liability, which, in his opinion, will be derived or incurred in consequence of such drainage work by every road and lot, or portion of lot, the assessment so made being the assessment hereinafter by this by-law enacted to be assessed and levied upon the roads and lots, or parts of lots hereinafter in that behalf specially set forth and described; and the report of ..... in respect thereof, and of the drainage work being as follows: (*here set out the report of the engineer or surveyor employed*).

And whereas the council is of opinion that the drainage of the area described is desirable:

Therefore the council of the ..... of ....., pursuant to *The Municipal Drainage Act*, enacts as follows:

1st. The report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (*or mayor*) of the ..... may borrow on the credit of the corporation of the ..... of ..... the sum of ..... dollars, being the funds necessary for the work *not otherwise provided for* (*or being the municipality's proportion of the funds necessary for the work*), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within ..... years from the date of the said debentures with interest at the rate of ..... per cent per annum: (*insert the manner of payment annually and whether with or without coupons, and if the latter, omit the last clause of this paragraph*) such debentures to be payable at ....., and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against such lands and roads for benefit, and the sum of (\$108), the amount charged against such lands and roads for outlet liability, and the sum of (\$135), the amount charged against such lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for ..... years, at the rate of ..... per cent per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the total special rates and interest against each lot or part of lot respectively shall be divided into ..... equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for ..... years, after the final passing of this by-law, during which the debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of Benefit.	Value of Outlet Liability.	Value of Injuring Liability.	To cover interest for ..... year at ..... per cent.	Total special rate.	Annual Assessment during each year for ..... years.
			\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
10	5	200	100 00	23 00				
10	S. 16	100	50 00	10 00				
10	N. 16	50	30 00	5 00				
10	S.W. 18	100	80 00	13 00				
10	S.W. 18 & N. 19	150	150 00	20 00				
10	4	200	.....	24 00				
10	S. 13	100	.....	13 00				
9	W. 15	100	.....		40 00			
9	N. 16	50	.....		25 00			
9	N.E. 18 & N. 17	150	.....		70 00			
Total for benefit.....			410 00	108 00	135 00			
" outlet.....			108 00					
" injuring.....			135 00					
Roads (and lands) of municipality.....			100 00					
Total.....			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against such roads and lands of the municipality, and for covering interest thereon for ..... years at the rate of ..... per cent per annum, a special rate in the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the ..... of ..... in each year for ..... years, after the final passing of this by-law, during which the debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the ..... newspaper, published in the town of ..... (or printed and served or mailed as prescribed), and shall come into force upon and after the final passing thereof, and may be cited as the "..... By-law".

## CHAPTER 253

## The Municipal Drainage Aid Act

1.—(1) The council of a township that has passed a by-law for undertaking a work under *The Municipal Drainage Act* may, after the expiration of the time limited for serving notice of intention to make application to quash the by-law, apply to the Treasurer of Ontario for the purchase by the Province of the debentures authorized thereby. Right to apply to the Treasurer of Ontario for purchase of debentures R.S.O. 1960, c. 252

(2) The application shall be in the prescribed form, sealed with the seal of the municipality and signed by the head thereof, and shall be accompanied by two affidavits, in the prescribed form, one to be made by him and the other by the clerk of the municipality. Form of application R.S.O. 1950, c. 247, s. 1.

2. The Treasurer of Ontario shall investigate and report to the Lieutenant Governor in Council as to the propriety of all proposed investments, in the order in which the applications therefor are received. Report by Treasurer as to investment R.S.O. 1950, c. 247, s. 2.

3. The Treasurer of Ontario shall not certify to the propriety of an investment where the aggregate amount of the rates necessary for the payment of the annual expenses of the municipality for the last completed financial year and of the interest and principal of the debts contracted by it exceeds three cents in the dollar on the whole value of the rateable property within its jurisdiction, or where the amount of the debentures to be issued exceeds \$60,000, and the amount invested in the purchase of debentures of any municipality shall not at any time exceed \$40,000. When the Treasurer not to certify to propriety of investment. R.S.O. 1950, c. 247, s. 3.

4.—(1) The Lieutenant Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any time \$500,000, in the purchase of debentures in respect of which the Treasurer of Ontario certifies to the propriety of the investment. Purchase of debentures

(2) No investment shall be made by the Treasurer under this Act where the price paid for the debentures would be such as to show a less return to the Province than the equivalent of an investment at 3 per cent per annum. Investment to show at least 3 per cent R.S.O. 1950, c. 247, s. 4.



Advances on  
account

5. The Lieutenant Governor in Council may authorize the advance of the whole par value of the debentures, or the retention of such percentage thereof as he may see fit until the Minister of Public Works has reported that the works have been inspected and are completed, and the expenses in connection with the investigation and inspection shall be deducted from the amount, if any, retained. R.S.O. 1950, c. 247, s. 5.

When debentures un-  
questionable

6. After such investment, the debentures shall not be questioned in any court and are valid and binding according to the terms thereof. R.S.O. 1950, c. 247, s. 6.

Repayment

7.—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario within one month after the same became payable, together with interest at the rate of 7 per cent per annum during the time of any default in payment.

Consequence  
of default  
in payment

(2) In case of a continuance of such default the council in the next ensuing year or as the case may require shall assess and levy on the whole rateable property within its jurisdiction in the same manner in which taxes are levied for the general purposes of the municipality a sum, over and above the other valid debts of the corporation falling due within the year, sufficient to enable the treasurer of the municipality to pay the amount in arrear together with interest thereon at the rate of 7 per cent per annum from the time the same became payable until payment, whether or not the same has been previously paid by or recovered from the persons or land chargeable therewith.

How arrears  
ranked as a  
charge

(3) The amount so in arrear and the interest shall be the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-laws they may have been raised.

Duty of  
municipal  
treasurer  
after default

(4) No treasurer or other officer shall after such default pay out of the funds of the municipality any sum, except for the ordinary current disbursements and salaries of clerks and other employees of the municipality or debts due to the Province, until the amount so in arrear and the interest has been paid to the Treasurer of Ontario.

Liability of  
municipal  
officer

(5) If such treasurer or other officer pays any sum contrary to subsection 4, in addition to any criminal liability that he may thereby incur, he is personally liable for every sum paid as for money had and received by him for the Crown.

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be violated is also personally and individually liable for the full amount so in arrear, and the interest, to be recovered as for money had and received by him for the Crown. <sup>Liability of member of council</sup>

(7) No assessment, levy or payment made under this section exonerates the persons or lands chargeable under the by-law from liability to the municipality. R.S.O. 1950, c. 247, s. 7. <sup>Liability of lands to municipality not affected</sup>

8. The Lieutenant Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act. R.S.O. 1950, c. 247, s. 8. <sup>Regulations and forms</sup>

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## CHAPTER 254

## The Municipal Franchise Extension Act

1.—(1) Subject to section 2, the council of a local municipality may pass a by-law providing for a resident voters' list. Resident voters' list  
1958, c. 66, s. 1 (1).

(2) Every person is entitled to be entered on the resident voters' list who, Qualification

(a) is or will be of the full age of twenty-one years on or before the 1st day of October in the year in which the resident voters' list is to be prepared;

(b) is a British subject by birth or naturalization;

(c) has resided in the municipality for the last twelve months next preceding the 1st day of January of the year in which the resident voters' list is to be prepared;

(d) is not entitled to be entered on the voters' list prepared under *The Voters' Lists Act*; and

R.S.O. 1960,  
c. 420

(e) is not disqualified under any Act or otherwise prohibited by law from voting. 1958, c. 66, s. 1 (2); 1959, c. 63, s. 1.

2. A by-law shall not be passed under section 1 until the following question has received the assent of the municipal electors at a regular municipal election: Question to be submitted to electors

Are you in favour of extending the right to vote at municipal elections for members of council to all persons of the full age of twenty-one years who are British subjects and who have resided in the municipality for at least one year in accordance with *The Municipal Franchise Extension Act*? 1958, c. 66, s. 2.

3.—(1) The names of the persons entitled to be entered on the resident voters' list shall be obtained by the assessor during the taking of the assessment in the year. Preparation of list

(2) The assessor shall call at least once at every place of residence in the municipality and shall secure the names and addresses of all persons who are entitled to be entered on the resident voters' list. Duties of assessor

(3) The assessor shall take all necessary precautions to ensure that his list, when complete, contains the names and addresses of persons entitled to be entered on the resident

voters' list that he has been able to obtain and does not contain the name of any person not so entitled and he shall deliver such list to the clerk of the municipality not later than the day fixed for the return of the assessment roll.

Registration  
form

(4) Where the assessor is unable to obtain the required information at any place of residence, he shall leave such number of Form 1 as he deems necessary at such place of residence.

Filing of  
registration  
form

(5) When the name and address of any person entitled to be entered on the resident voters' list cannot be obtained by the assessor, such person may complete Form 1 and file it with the clerk of the municipality not later than the day fixed for the return of the assessment roll. 1959, c. 63, s. 2.

List to be  
prepared  
by clerk

4. The clerk of the municipality shall prepare the resident voters' list from the assessor's list and the Forms filed with him under subsection 5 of section 3 by listing the names and addresses appearing thereon, except those that also appear on the voters' list prepared under *The Voters' Lists Act*, in the same order as in such voters' list and, where the municipality is divided into polling subdivisions, shall prepare a separate list for each subdivision. 1958, c. 66, s. 4; 1959, c. 63, s. 3.

R.S.O. 1960,  
c. 420

Application  
of R.S.O.  
1960, c. 420

5. Sections 9 to 23 of *The Voters' Lists Act* apply *mutatis mutandis* to the resident voters' list. 1958, c. 66, s. 5.

Effect of  
certified list

6. The certified resident voters' list is final and conclusive evidence that every person named thereon is entitled to vote at municipal elections for members of council, except,

(a) persons not resident in the municipality on the day of polling; and

(b) persons guilty of corrupt practices at or in respect of the election in question, or since the list was certified. 1958, c. 66, s. 6.

Persons  
on list not  
counted  
under  
R.S.O. 1960,  
c. 249

7. Persons entered on the resident voters' list shall not be counted as municipal electors for the purpose of section 33 of *The Municipal Act*. 1958, c. 66, s. 7.

Oath to be  
administered  
to voter

8. When a person entered on the resident voters' list is required to take an oath under section 93 of *The Municipal Act*, the oath shall be in Form 2. 1958, c. 66, s. 8.

Offence,  
untrue  
statement  
in form

9. Every person who knowingly makes an untrue statement to an assessor or in any form under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. 1958, c. 66, s. 9; 1959, c. 63, s. 4.

FORM 1

Section 3 (4, 5)

THE MUNICIPAL FRANCHISE EXTENSION ACT

Municipality.....

Polling Subdivision No. ....

I, the undersigned, hereby request that my name be entered in the resident voters' list and certify that the information given herein is correct.

Full name.....

Present address.....

Are you a British subject?.....

Are you or will you be twenty-one years of age or over on or before the 1st day of October (*insert year*)?.....

Have you resided in ..... (*name of municipality*) for the last twelve months next preceding the 1st day of January (*insert year*)?.....

.....

*Date*

.....

*Signature*

NOTE: If you wish your name entered on the resident voters' list, this form must be filed with the municipal clerk not later than (*insert the day fixed for the return of the assessment roll*).

1959, c. 63, s. 5.

FORM 2

Section 8

THE MUNICIPAL FRANCHISE EXTENSION ACT

OATH TO BE ADMINISTERED TO A VOTER

You swear (*or solemnly affirm*):

1. That you are the person named or intended to be named by the name of ..... in the resident voters' list now shown to you.
2. That you are a British subject by birth or naturalization of the full age of twenty-one years.
3. That you have resided in.....(*name of municipality*) for the last twelve months next preceding the 1st day of January (*insert year*) and that you reside in such municipality on the day of polling.
4. That you have not voted before at this election at this or any other polling place.
5. That you have not, directly or indirectly, received any reward or gift, nor do you expect to receive any, for the vote which you tender.
6. That you have not received anything, nor has anything been promised you, directly or indirectly, to induce you to vote at this election.
7. That you have not directly or indirectly, paid or promised anything to any person to induce him to vote or to refrain from voting at this election.





## CHAPTER 255

## The Municipal Franchises Act

## 1. In this Act,

Interpre-  
tation

- (a) "franchise" includes any right or privilege to which this Act applies;
- (b) "gas" means natural gas, manufactured gas or any liquefied petroleum gas, and includes any mixture of natural gas, manufactured gas or liquefied petroleum gas, but does not include a liquefied petroleum gas that is distributed by a means other than a pipe line;
- (c) "highway" includes a street and a lane;
- (d) "public utility" includes waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. R.S.O. 1950, c. 249, s. 1; 1955, c. 49, s. 1.

2. A municipal corporation shall not enter into or renew any contract for the supply of electrical power or energy to the corporation or to the inhabitants thereof until a by-law setting forth the terms and conditions of the contract has been first submitted to, and has received the assent of the municipal electors in the manner provided by *The Municipal Act*. R.S.O. 1950, c. 249, s. 2.

Assent to  
contracts  
for supply  
of electric  
powerR.S.O. 1960,  
c. 249

3.—(1) A municipal corporation shall not grant to any person nor shall any person acquire the right to use or occupy any of the highways of the municipality except as provided in *The Municipal Act*, or to construct or operate any part of a transportation system or public utility in the municipality, or to supply to the corporation or to the inhabitants of the municipality or any of them, gas, steam or electric light, heat or power, unless a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted or acquired has been assented to by the municipal electors.

Where assent  
required

(2) Subsection 1 does not apply to The Hydro-Electric Power Commission of Ontario.

Hydro  
Commission  
exempt

(3) Where the trustees of a police village request the council of the township in which the village is situate to grant any

In police  
villages

such right with respect to the village, or where the board of trustees of a police village desire to grant such a right, it is a sufficient compliance with subsection 1 if the by-law receives the assent of the municipal electors of the village.

Renewals  
and  
extensions

(4) This section applies to the renewal or extension of an existing franchise. R.S.O. 1950, c. 249, s. 3.

Consent of  
council of  
city, when  
required

4.—(1) The council of a local municipality shall not grant a franchise upon any highway of the municipality within a radius of five miles of the boundary of any city without notice in writing to the council of the city, and if the council of the city, within four weeks after the receipt of the notice, gives a notice in writing to the council of the local municipality that it objects to the granting of the franchise the approval of the Ontario Municipal Board shall be obtained, and if the council of the city does not give such notice within such time, it shall be deemed to have no objection and the council of the local municipality may grant the franchise with the assent of the municipal electors of the local municipality as provided by section 3. R.S.O. 1950, c. 249, s. 4.

Gas  
franchises

(2) Where the franchise referred to in subsection 1 is a gas franchise, the Ontario Energy Board shall take the place of the Ontario Municipal Board for the purposes of this section. 1955, c. 49, s. 2.

Extension  
of certain  
existing  
works not  
to be made  
without  
by-law

5.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 1 of section 3, which has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 1 or subsection 3 of section 3, and such consent is necessary, notwithstanding that such last-mentioned by-law is expressly limited in its operation to a period not exceeding one year.

Exceptions  
as to  
franchises  
granted  
before 16th  
March, 1909

(2) Subsection 1 does not apply to a franchise or right granted by or under the authority of any general or special Act of the Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. R.S.O. 1950, c. 249, s. 5.



6.—(1) Subject to section 2 and except as therein provided <sup>Exceptions:</sup> and except where otherwise expressly provided, this Act does not apply to a by-law,

- (a) granting the right of passing through the municipi-works  
pality for the purpose of continuing a line, work or<sup>originating</sup>  
system that is intended to be operated in or for the<sup>in another</sup>  
benefit of another municipality and is not used or<sup>municipality</sup>  
operated in the municipality for any other purpose  
except that of supplying gas in a township to persons  
whose land abuts on a highway along or across  
which the same is carried or conveyed, or to persons  
whose land lies within such limits as the council by  
by-law passed from time to time determines should  
be supplied with any of such services;
- (b) granting the right of passing through the municipi-<sup>gas trans-</sup>  
pality with a line to transmit gas not intended to be<sup>mission lines</sup>  
distributed from such line in the municipality or  
only intended to be distributed from such line in the  
municipality to a person engaged in the transmission  
or distribution of gas;
- (c) conferring the right to construct, use and operate<sup>oil, gas and</sup>  
works required for the transmission of oil, gas or<sup>waterworks</sup>  
water not intended for sale or use in the municipality;
- (d) that is expressly limited in its operation to a period<sup>limited to</sup>  
not exceeding one year and is approved by the<sup>one year</sup>  
Ontario Municipal Board;
- (e) of a county or township that is approved by the<sup>counties and</sup>  
Lieutenant Governor in Council. R.S.O. 1950, c. 249,<sup>townships</sup>  
s. 6; 1954, c. 60, s. 1.

(2) Where the by-law within the meaning of clause *d* of<sup>Gas</sup>  
subsection 1 is a gas franchise by-law, the Ontario Energy<sup>franchises</sup>  
Board shall take the place of the Ontario Municipal Board  
for the purposes of the clause. 1955, c. 49, s. 3.

7. Where a by-law to which clause *d* of section 6 applies<sup>Extension</sup>  
is passed, that clause does not apply to any subsequent by-law<sup>of one year</sup>  
in respect of the same works or any part of them or to an<sup>franchise</sup>  
extension of or addition to them, although the subsequent<sup>from year</sup>  
by-law is expressly limited in its operation to a period not<sup>to year</sup>  
exceeding one year, and no such subsequent by-law has any<sup>prohibited</sup>  
force or effect unless it is assented to by the municipal electors  
as provided by subsection 1 of section 3. R.S.O. 1950, c. 249,  
s. 7.

8.—(1) Notwithstanding any other provision in this Act<sup>Approval</sup>  
or any other general or special Act, no person shall construct<sup>for con-</sup>  
any works to supply or supply,<sup>struction of</sup>  
<sup>gas works</sup>  
<sup>or supply of</sup>  
<sup>gas in</sup>  
<sup>municipality</sup>

- (a) natural gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas; or
- (b) gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas and in which gas was then being supplied,

without the approval of the Ontario Energy Board, and such approval shall not be given unless public convenience and necessity appear to require that such approval be given.

Form of  
approval

(2) The approval of the Ontario Energy Board shall be in the form of a certificate. 1954, c. 60, s. 2 (1).

Jurisdiction  
of Energy  
Board

(3) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and to grant or refuse to grant any certificate of public convenience and necessity, but no such certificate shall be granted or refused until after the Board has held a public hearing to deal with the matter upon application made to it therefor, and of which hearing such notice shall be given to such persons and municipalities as the Board may deem to be interested or affected and otherwise as the Board may direct. R.S.O. 1950, c. 249, s. 8 (3); 1954, c. 60, s. 2 (2).

Gas  
franchise  
by-law to be  
approved by  
Energy  
Board

**9.—(1) No by-law granting,**

- (a) the right to construct or operate works for the distribution of gas;
- (b) the right to supply gas to a municipal corporation or to the inhabitants of a municipality;
- (c) the right to extend or add to the works mentioned in clause *a* or the services mentioned in clause *b*;
- (d) a renewal of or an extension of the term of any right mentioned in clause *a* or *b*,

shall be submitted to the municipal electors for their assent unless the terms and conditions upon which and the period for which such right is to be granted, renewed or extended have first been approved by the Ontario Energy Board.

Jurisdiction  
of Energy  
Board

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and may give or refuse its approval.

Hearing to  
be held

(3) The Ontario Energy Board shall not make an order granting its approval under this section until after the Board has held a public hearing to deal with the matter upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct.

(4) The Board, after holding a public hearing upon such notice as the Board may direct and if satisfied that the assent of the municipal electors can properly under all the circumstances be dispensed with, may in any order made under this section declare and direct that the assent of the electors is not necessary. 1955, c. 49, s. 5, *part*.

Electors' assent may be dispensed with

**10.** With leave of a judge thereof, an appeal lies upon any question of law or fact to the Court of Appeal from any certificate granted under section 8 or any order made under section 9 if application for leave to appeal is made within fifteen days from the date of the certificate or order, as the case may be, and the rules of practice of the Supreme Court apply to any such appeal. 1955, c. 49, s. 5, *part*.





## CHAPTER 256

**The Municipal Health Services Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Municipal Health Services Board established under this Act;
- (b) "Minister" means the Minister of Health;
- (c) "municipality" means a local municipality as defined in *The Municipal Act* and includes an improvement district and a school section in an unorganized township or unsurveyed territory; R.S.O. 1960, c. 249
- (d) "municipal health services" has the meaning prescribed in the regulations. R.S.O. 1950, c. 250, s. 1.

**2.—(1)** The council of a municipality or the councils of two or more municipalities that have entered into an agreement therefor may by by-law provide for the establishment of a plan of municipal health services for the municipality or municipalities. Plan of health services

(2) No agreement shall be entered into and no by-law shall be introduced under this section until the plan provided for therein has been approved by the Lieutenant Governor in Council. Approval of Lieutenant Governor in Council R.S.O. 1950, c. 250, s. 2.

**3.—(1)** No by-law passed and approved under section 2 comes into force or has effect until the proposed plan has been submitted, either at the next municipal election or at such time as the council or councils may decide, to a vote as provided in this section. Vote on by-law

(2) Where the entire cost of the proposed plan, except any portion that is to be paid by provincial contribution, is to be borne by a special rate imposed on the rateable property in the municipality, the proposed plan shall be submitted to a vote of the persons entitled to vote on money by-laws and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established. where property tax

(3) Where the entire cost of the proposed plan, except any portion that is to be paid by provincial contribution, is to be borne by a personal tax on the residents of the municipality, where personal tax

the proposed plan shall be submitted to a vote of the municipal electors and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established.

where  
both taxes

(4) Where part of the cost of the proposed plan is to be borne by a special rate imposed on the rateable property in the municipality, and the balance of the cost, except any portion that is to be borne by provincial contribution, is to be borne by a personal tax on the residents of the municipality, the proposed plan shall be submitted to a vote of the municipal electors and to a further vote of persons entitled to vote on money by-laws and unless a majority of the municipal electors so voting and a majority of the persons entitled to vote on money by-laws so voting are in favour of the proposed plan, the plan shall not be established. R.S.O. 1950, c. 250, s. 3.

Board

4.—(1) There shall be a board known as the Ontario Municipal Health Services Board which is a body corporate and shall consist of not less than seven and not more than ten members who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman

(2) The Board shall appoint one of its members to be chairman.

Powers and  
duties

(3) The powers and duties of the Board shall be defined in the regulations and, subject to the approval of the Lieutenant Governor in Council, the Board may,

- (a) enter into an agreement with any municipality that has enacted a by-law under section 2; and
- (b) enter into an agreement with any person or with any medical, hospital or other association, corporate or otherwise, for the provision of municipal health services for any municipality that has entered into an agreement with the board.

Receiving  
and dis-  
bursement  
of moneys

(4) The Board may receive from any municipality that has enacted a by-law under section 2 all moneys collected by the municipality for the purpose of providing municipal health services and may disburse such moneys for the purpose of securing the provision of municipal health services and any expenses incidental thereto. R.S.O. 1950, c. 250, s. 4.

Municipal  
committee

5. The council of any municipality that has enacted a by-law under section 2 may appoint a committee of its members, or of other persons, which shall consist of not less than three and not more than five members, and the committee shall assist and advise the council in respect of any matter arising under this Act. R.S.O. 1950, c. 250, s. 5.



**6.—**(1) For the purposes of carrying out the provisions of <sup>Personal tax</sup> any by-law under this Act the council of a municipality may levy and collect a personal tax in respect of every male and female resident in the municipality who is seventeen years of age or over.

(2) The parent of a dependent child who is seventeen years of age or over and less than twenty-one years of age is liable <sup>Liability of parent and husband</sup> for the payment of the tax in respect of such child and a husband is liable for the payment of the tax in respect of his wife.

(3) Every person liable to pay a personal tax shall pay the tax to the treasurer of the municipality within one week of <sup>Time for payment</sup> the date upon which the tax becomes due and payable under the by-law providing therefor, and in case of neglect or refusal to make such payment the collector may levy the amount of the tax and costs of distress, by distress and sale of the goods and chattels of such person.

(4) The assessor of the municipality may require any employer, whether the business of such employer is situate within or outside the municipality, to furnish him with a list of those of his employees who are resident within the municipality, and of the dates upon which they are paid their salary or wages, and every such employer shall advise the assessor of any changes therein that may occur. <sup>Returns from employers</sup>

(5) The treasurer of the municipality may require any employer, whether the business of such employer is situate within or outside the municipality, to deduct from the salary or wages of all employees residing within the municipality the amounts that are payable to the municipality under this section and to pay such amounts to the municipality, and in the event that the employer fails or neglects to comply with such requirement he is personally liable for the amounts so payable. <sup>Deduction by employer</sup> R.S.O. 1950, c. 250, s. 6.

**7.** For the purpose of carrying out the provisions of any <sup>Property tax</sup> by-law under this Act the council of a municipality may levy and collect a special rate upon all the rateable property within the municipality and all the provisions of *The Assessment Act* <sup>R.S.O. 1960, c. 23</sup> applicable to the levying and collecting of local rates apply to the special rate levied under this Act. R.S.O. 1950, c. 250, s. 7.

**8.—**(1) In a municipality in which a plan has been adopted, <sup>Assessment rolls</sup> the assessor shall include in the assessment roll the name of every person who is a resident of the municipality within the meaning of the regulations and where part of the cost of the

plan is to be borne by a personal tax the assessor shall enter after the name of every person who is liable to such tax the letters "P.T."

Idem

(2) Where the council of a municipality passes a resolution favouring the establishment of a plan of municipal health services, the council may direct the assessor to comply with the requirements of subsection 1 in the preparation of the next assessment roll. R.S.O. 1950, c. 250, s. 8.

Amount  
of taxes  
payable  
to Board

**9.** A municipality shall pay to the Board an amount equal to the total levy made under section 6 or 7, or both, at such times as may be required by the regulations. R.S.O. 1950, c. 250, s. 9.

No liability  
to county

**10.** A municipality that has established a plan of municipal health services that includes hospital care under this Act is not required to contribute to any levy made by a county for the costs of providing hospital care for indigent persons who are residents of the county. R.S.O. 1950, c. 250, s. 10.

Unorganized  
territory

**11.** The Lieutenant Governor in Council may make provision for furnishing municipal health services to the residents of any area that is without municipal organization and does not form part of a school section. R.S.O. 1950, c. 250, s. 11.

Contri-  
butions by  
Province

**12.** The Lieutenant Governor in Council may provide for the making of annual or other contributions to any municipality that has passed a by-law under this Act. R.S.O. 1950, c. 250, s. 12.

Consolidated  
Revenue  
Fund

**13.** Expenses incurred under section 11 and contributions made under section 12 shall be paid out of the Consolidated Revenue Fund. R.S.O. 1950, c. 250, s. 13.

Further vote  
on plan

**14.** At the first municipal election held after the termination of a period of three years from the date of the commencement of a plan for municipal health services, the plan shall again be submitted to a vote as in section 3 provided and shall not continue in force unless a majority of the persons voting as prescribed in section 3 are in favour thereof. R.S.O. 1950, c. 250, s. 14.

Alteration  
of plan

**15.—(1)** A plan for municipal health services established under this Act shall not be altered or terminated except with the like approval as required by section 2.

Amendment  
of by-law

(2) A by-law made under this Act shall be amended or repealed only with the like vote as is required for a by-law made under section 3.

(3) The Lieutenant Governor in Council may terminate any plan for municipal health services and thereupon every by-law and agreement relating thereto shall be deemed to be revoked and terminated. R.S.O. 1950, c. 250, s. 15. <sup>Termination of plan</sup>

**16.** Where a scheme is terminated, the Lieutenant Governor in Council may provide for the disposition and application of any moneys collected under the provisions of this Act that are not required for the purpose of the plan. R.S.O. 1950, c. 250, s. 16. <sup>Termination of plan, moneys on hand</sup>

**17.** Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations which may be general or particular in their application, <sup>Regulations</sup>

- (a) respecting the establishment of municipal health services;
- (b) defining "municipal health services" and prescribing the type of service and the maximum services that may be provided under any plan;
- (c) defining the powers and duties of the Board and providing for the employment of assistants and the payment of the expenses of the Board out of such moneys as may come into its hands;
- (d) governing the amount and conditions of payment of provincial contributions;
- (e) defining the term "resident";
- (f) prescribing the periods within which a resident is liable for the payment of the rates and taxes imposed under this Act and the periods during which a resident is entitled to municipal health services in the municipality;
- (g) prescribing the dates upon which any rates or taxes levied in the municipality shall become due and payable and the manner in which they shall be paid;
- (h) providing for the exemption from taxation of any class of persons who are dependent in whole or in part upon contributions from public funds for their maintenance;
- (i) providing for the cancellation or reduction of the taxes of any person who from sickness or extreme poverty is unable to pay the taxes;
- (j) providing for the exemption from any tax imposed by this Act, or any portion thereof, of any class or group of persons who contribute to a plan for the provision of medical services or health services;



- (*k*) providing for the exemption of duly accredited members and adherents of any religious denomination designated by the regulations from any tax imposed under section 6 and from any tax imposed under section 7 in respect of such portion of any premises as may be owned and occupied as a residence by any such member or adherent, upon such terms and conditions as may be prescribed;
  - (*l*) providing for the cancellation or reduction of the taxes of any person who by reason of any gross or manifest error has been charged or overcharged;
  - (*m*) providing for the appointment of inspectors and prescribing their powers and duties;
  - (*n*) requiring the Board to report to the Minister;
  - (*o*) prescribing forms and providing for their use;
  - (*p*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.  
R.S.O. 1950, c. 250, s. 17.
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## CHAPTER 257

## The Municipal Subsidies Adjustment Act

## 1. Where a municipality is,

(a) amalgamated with an urban municipality or municipalities; or

Adjustment  
of grants on  
amalgama-  
tions and  
annexations

(b) annexed in whole or in part or parts to an urban municipality or municipalities,

the Minister of Highways shall adjust the provincial grants or subsidies payable under *The Highway Improvement Act* so that such grants or subsidies will be payable on the same basis for a period of five years after the amalgamation or annexation as they would have been if the amalgamation or annexation had not taken place, and shall further adjust such grants or subsidies on a progressively reduced basis during the next succeeding five years. 1953, c. 71, s. 1. R.S.O. 1960,  
c. 171

2. Section 1 applies only where the area annexed in any year contains 10 per cent or more of the resident population of the municipality from which the area is detached, as certified by the clerk of such municipality. 1953, c. 71, s. 3. Application  
of sec. 1

3.—(1) The Minister of Municipal Affairs shall in each year adjust the payments to municipalities under *The Municipal Unconditional Grants Act* so that no municipality shall receive less in such year under *The Municipal Unconditional Grants Act*, *The Fire Departments Act* and *The Police Act* than it received in 1953 in respect of the maintenance and operation of its fire department and police force under *The Fire Departments Act* and *The Police Act* and in respect of the one mill subsidy. Adjustment  
of payments  
under R.S.O.  
1960, c. 259  
R.S.O. 1960,  
cc. 145, 298

(2) This section does not apply to a municipality the population of which, due to a decrease in population, has been redetermined under subsection 3 of section 4 of *The Municipal Unconditional Grants Act*. 1954, c. 61, s. 1, *part*. Proviso

4. Notwithstanding *The Municipal Unconditional Grants Act*, where part of a rural municipality having a taxable assessment of less than 15 per cent of the total taxable assessment of such rural municipality is annexed to an urban municipality, the Minister of Municipal Affairs shall adjust the payments under that Act for the first five years immediately following the annexation, so that, Adjustment  
of payments  
under  
R.S.O. 1960,  
c. 259 on  
annexations

- (a) the rural municipality shall receive a per capita payment under that Act on the assessed population of the annexed area at the time of the annexation at the per capita rate to which it was entitled on the day immediately preceding the time of annexation; and
  - (b) the urban municipality shall receive a per capita payment under that Act on the assessed population of the annexed area at the time of the annexation at a per capita rate equal to the amount, if any, by which the per capita rate to which the urban municipality is entitled exceeds the per capita rate to which the rural municipality was entitled on the day immediately preceding the time of annexation. 1954, c. 61, s. 1, *part*; 1956, c. 52, s. 1; 1957, c. 78, s. 1.
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## CHAPTER 258

**The Municipal Tax Assistance Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Crown agency" means an agency of the Crown in right of Ontario, but does not include The Hydro-Electric Power Commission of Ontario;
- (c) "Department" means the Department of Municipal Affairs;
- (d) "highways" means highways, docks, ferries, wharfs, parking lots in connection therewith, land held to provide clear view at road junctions and railroad crossings, and land acquired and held for future highways;
- (e) "municipality" means a city, town, village, township or improvement district;
- (f) "provincial property" means real property owned by the Crown in right of Ontario or by any Crown agency, but does not include property owned or held in trust by The Hydro-Electric Power Commission of Ontario;
- (g) "rates levied for general municipal purposes" includes all levies upon real property made by a municipality except levies for school purposes and levies on business assessment;
- (h) "real property" includes buildings and structures erected thereon. 1952, c. 66, s. 1.

**2.—(1) Nothing in this Act confers a right to a payment.** Limitation

(2) Nothing in this Act authorizes a municipality to levy taxes on provincial property or against the Crown in right of Ontario or any Crown agency. 1952, c. 66, s. 2. Idem

**3.—(1) All provincial property in a municipality shall be valued in each year for the purposes of this Act by the Department.** Valuation

(2) The valuation shall be made on the same basis as real property liable for municipal taxation in the municipality is valued. Basis

(3) Real property of railroads owned by the Crown in right of Ontario or any Crown agency in a municipality shall Railroads

be valued in the same way, on the same basis, and to the same extent as railroads in the municipality are valued under *The Assessment Act*.  
R.S.O. 1960, c. 23

Valuation  
notice

(4) The Department shall, on completion of the valuation of the provincial property in a municipality, deliver or mail to the clerk of the municipality a notice setting out the valuation on each parcel of provincial property in the municipality.

Idem

(5) The Department shall also deliver or mail a copy of such notice to any agency of the Crown in right of Ontario in respect of land owned by such agency. 1952, c. 66, s. 3 (1-5).

Exception

(6) This Act does not apply to unpatented lands, public lands set apart as a wilderness area, provincial property used for park purposes including the buildings in the parks, hospitals, penal and reform institutions, educational institutions, museums and libraries, highways, jails, cemeteries, minerals, farms operated by institutions, experimental and demonstration farms, cooling stations, weigh-scales and inspection stations, fish hatcheries, provincial forests and real property subject to municipal taxation under section 34 of *The Assessment Act*, or acquired or held for the purpose of a housing project, or any provincial property for which, in the opinion of the Minister of Municipal Affairs, municipal services are not available. 1952, c. 66, s. 3 (6); 1960, c. 70, s. 1.

Minister's  
decision

(7) The decision of the Minister of Municipal Affairs as to whether this Act applies to any provincial property is final. 1952, c. 66, s. 3 (7).

Appeals

4.—(1) The municipality, the Department on behalf of the Crown in right of Ontario or on behalf of any Crown agency, and any Crown agency in respect of provincial property owned or occupied by it, may appeal to the Board against the valuation.

Notice

(2) A notice of appeal to the Board under this section shall be sent by the party appealing, by registered mail, to the secretary of the Board within twenty-one days after the notice of the valuation has been delivered or mailed under subsection 4 of section 3.

Hearing

(3) Upon receipt of a notice of appeal under this section, the secretary of the Board shall arrange a time and place for hearing the appeal and shall send notice thereof to all parties concerned in the appeal at least fourteen days before the hearing.

Jurisdiction  
on appeal

(4) The Board upon appeal shall determine the amount at which the property in question shall be valued.

Decision  
final

(5) The decision of the Board is final and binding and there is no appeal therefrom. 1952, c. 66, s. 4.

5.—(1) The Department, in respect of provincial property <sup>Payments</sup> owned by the Crown in right of Ontario and not occupied by a Crown agency, may pay in each year to the municipality in which the property is situate the amount which the rate levied for general municipal purposes on the assessment for real property that is used as a basis for computing business assessment in that municipality, based on the value determined for such provincial property in the preceding year under this Act, would produce.

(2) Every Crown agency, in respect of provincial property <sup>Idem</sup> owned or occupied by it, may pay in each year to the municipality in which the property is situate the amount which the rate levied for general municipal purposes on the assessment for real property that is used as a basis for computing business assessment in that municipality, based on the value determined for such provincial property in the preceding year under this Act, would produce. 1957, c. 79, s. 1.

(3) Where the Crown in right of Ontario or any Crown <sup>Business</sup> agency occupies or uses land for the purpose of, or in connection with any business, the Department or the Crown agency, as the case may be, may pay to the municipality in which the land is situate the amount that the current rates for general municipal purposes on business assessment would produce in respect of the carrying on of such business on the land.

(4) For the purposes of subsection 3, the legislative, execu- <sup>Idem</sup> tive and administrative activities of the Government of Ontario shall not be deemed to be the carrying on of a business.

(5) Notwithstanding subsection 6 of section 3 and not- <sup>Local</sup> withstanding sections 61 and 62 of *The Local Improvement* <sup>improve-  
ments</sup> *Act*, the Department or the Crown agency may pay local im- <sup>R.S.O. 1960,  
c. 223</sup> provement assessments in respect of any provincial property. 1952, c. 66, s. 5 (3-5).

6.—(1) In respect of provincial property owned and occu- <sup>Funds for  
payments</sup> pied by the Crown in right of Ontario, the moneys required for the purposes of this Act are payable out of such moneys as may be appropriated therefor by the Legislature.

(2) In respect of provincial property owned or occupied by <sup>Idem</sup> a Crown agency, the moneys required for the purposes of this Act are payable out of the funds of the agency. 1952, c. 66, s. 6.

7. The provisions of this Act apply notwithstanding any- <sup>Application  
of Act</sup> thing in any other general or special Act or any agreement heretofore made. 1952, c. 66, s. 8.





## CHAPTER 259

## The Municipal Unconditional Grants Act

## 1. In this Act,

Interpre-  
tation

- (a) "Department" means the Department of Municipal Affairs;
- (b) "Minister" means the Minister of Municipal Affairs;
- (c) "municipality" means a metropolitan municipality, city, town, village or township, but does not include a municipality situated within a metropolitan municipality. 1953, c. 72, s. 1.

2.—(1) The Department shall, if required for the purposes of this Act, determine in any year the population of each municipality in Ontario.

Population  
to be de-  
termined by  
Department

(2) In determining the population of a municipality, the Department shall take the population of the municipality according to the latest census published by the Dominion Bureau of Statistics and shall adjust that population,

Method  
of determi-  
nation

- (a) by deducting the total number of persons included in such census who, at the time of the taking of such census, were inmates of institutions, or resided in defence establishments or on Indian reserves, or were transient employees, vacation residents or other temporary residents; and
- (b) by making allowance for any errors in such census that are certified by the Dominion Bureau of Statistics.

(3) Where the population of a municipality that is incorporated after the taking of the latest census published by the Dominion Bureau of Statistics is not shown in such census, its population shall be determined in such manner as the Department deems proper. 1953, c. 72, s. 2, *amended*.

New munici-  
palities

3. Whenever the Dominion Bureau of Statistics publishes a new census, the Department shall redetermine the population of each municipality in Ontario in accordance with that census and section 2. 1953, c. 72, s. 4, *amended*.

New census

Redeter-  
mination of  
population

**4.—(1)** Where in the opinion of the Department the population of a municipality as determined under section 2, 3 or 5 has increased by an amount equal to 7 per cent of the population as so determined, the Department shall redetermine the population of the municipality.

Idem

(2) The Department may from time to time thereafter redetermine the population of the municipality whenever in its opinion the population has increased by 7 per cent of the population as last determined.

Idem

(3) Where in the opinion of the Department the population of a municipality as determined under section 2, 3 or 5 has decreased by an amount equal to 7 per cent of the population as so determined by reason of any change in the boundaries of the municipality, the Department shall redetermine the population of the municipality.

Idem

(4) The Department may from time to time thereafter redetermine the population of the municipality whenever in its opinion the population has decreased by 7 per cent of the population as last determined, by reason of any change in the boundaries of the municipality.

Idem

(5) Whenever in the opinion of the Department the population of a municipality has increased so that it will be entitled to an increase in the per capita payment to which it is entitled under section 7, the Department shall redetermine the population of the municipality. 1953, c. 72, s. 3 (1-5), *amended*.

Disputes

**5.** In the event of a dispute between a municipality and the Department as to its population for the purposes of this Act, the council of the municipality may appeal to the Minister who shall thereupon determine or redetermine, as the case may be, the population in accordance with this Act, and the decision of the Minister is final. 1953, c. 72, s. 5.

Effective  
date of de-  
termination  
of population

**6.** Any determination or redetermination of the population of a municipality in respect of any year under this Act is effective for the grant payable in the following year and thereafter until redetermined in accordance with this Act. 1953, c. 72, s. 3 (6), *amended*.

Per capita  
payments

**7.** In each year there shall be paid out of the moneys appropriated therefor by the Legislature to each municipality in Ontario a per capita payment or payments in accordance with the population of the municipality as last determined under this Act in the amounts set out in the Schedule to this Act. 1953, c. 72, s. 6; 1957, c. 80, s. 1.



8. There shall be paid in each year out of the moneys appropriated therefor by the Legislature to each county in which an Indian reserve is located by way of unconditional grant to assist each such county in the administration of justice in the county a per capita payment of \$1 in accordance with the population of the Indian reserve according to the latest census from time to time published by the Dominion Bureau of Statistics. 1958, c. 67, s. 1.

Per capita  
payments  
to counties  
re Indian  
reserves

9.—(1) The Department may require each municipality to state upon its tax bills in each year, in such manner, form and detail as the Department may require, the amount of the grants payable to it by the Province in that year.

Statement of  
provincial  
grants on  
tax bills

(2) The Department may require any municipality situated within a metropolitan municipality and any local municipality forming part of a county to state on its tax bills in each year, in such manner, form and detail as the Department may require, its share of the grants payable to the metropolitan municipality or county by the Province in that year. 1953, c. 72, s. 7.

Idem

## SCHEDULE

## (Section 7)

## PART I

To assist each municipality in Ontario, the taxpayers of which contribute through municipal taxes toward the cost of the administration of justice in a county, by way of unconditional grant:

\$1.00 per capita

## PART II

To assist each municipality in Ontario in the provision of welfare and social services, including indigent and unemployment relief, hospitalization and institutional care costs and other services for its inhabitants, by way of unconditional grant:

\$2.00 per capita

## PART III

In recognition of the larger per capita expenditures that municipalities with larger populations are required to make in the provision of welfare and social services, including indigent and unemployment relief, hospitalization and institutional care costs and other services for their inhabitants, the following per capita payments to municipalities having a population of over 2,000, in addition to those set out in Part I and Part II, by way of unconditional grant:

- (a) \$0.10 per capita in the case of towns and villages having a population of over 2,000 and not exceeding 5,000;
- (b) \$0.10 per capita in the case of townships having a population of over 2,000 and not exceeding 5,000;
- (c) \$0.25 per capita in the case of towns and villages having a population of over 5,000 and not exceeding 7,000;
- (d) \$0.25 per capita in the case of townships having a population of over 5,000 and not exceeding 10,000;
- (e) \$0.35 per capita in the case of townships having a population of over 10,000 and not exceeding 15,000;
- (f) \$0.50 per capita in the case of towns and villages having a population of over 7,000 and not exceeding 10,000;
- (g) \$0.50 per capita in the case of townships having a population of over 15,000 and not exceeding 20,000;
- (h) \$0.75 per capita in the case of towns and villages having a population of over 10,000;
- (i) \$0.75 per capita in the case of townships having a population of over 20,000;
- (j) \$1.00 per capita in the case of cities having a population of 75,000 and under;
- (k) \$1.25 per capita in the case of cities having a population of over 75,000 and not exceeding 200,000;
- (l) \$1.50 per capita in the case of cities having a population of over 200,000 and not exceeding 400,000;
- (m) \$2.00 per capita in the case of cities having a population of over 400,000 and not exceeding 750,000;
- (n) \$2.50 per capita in the case of metropolitan municipalities and cities having a population of over 750,000.

## CHAPTER 260

**The Municipality of Metropolitan Toronto Act**

## INTERPRETATION

**1. In this Act,**Interpre-  
tation

- (a) "area municipality" means the municipality or corporation of the Township of East York, the Township of Etobicoke, the Village of Forest Hill, the Town of Leaside, the Village of Long Branch, the Town of Mimico, the Town of New Toronto, the Township of North York, the Township of Scarborough, the Village of Swansea, the City of Toronto, the Town of Weston or the Township of York;
- (b) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) "chairman" means the chairman of the Metropolitan Council;
- (d) "debt" includes obligation for the payment of money;
- (e) "Department" means the Department of Municipal Affairs;
- (f) "highway" and "road" mean a common and public highway, and include a street, bridge, and any other structure incidental thereto;
- (g) "land" includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water, and includes any buildings or improvements on land;
- (h) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the Metropolitan Corporation or of an area municipality or of two or more area municipalities or portions thereof;



- (i) "Metropolitan Area" means the area from time to time included within the municipalities of the Township of East York, the Township of Etobicoke, the Village of Forest Hill, the Town of Leaside, the Village of Long Branch, the Town of Mimico, the Town of New Toronto, the Township of North York, the Township of Scarborough, the Village of Swansea, the City of Toronto, the Town of Weston and the Township of York;
- (j) "Metropolitan Corporation" means The Municipality of Metropolitan Toronto;
- (k) "Metropolitan Council" means the council of the Metropolitan Corporation;
- (l) "metropolitan road" means a road forming part of the metropolitan road system established under Part V;
- (m) "Minister" means the Minister of Municipal Affairs;
- (n) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money, other than a by-law passed under section 233;
- (o) "Municipal Board" means the Ontario Municipal Board;
- (p) "roadway" means that part of the highway designed or intended for use by vehicular traffic. 1953, c. 73, s. 1; 1959, c. 65, s. 1.

## PART I

### INCORPORATION AND COUNCIL

Metropolitan Corporation continued

**2.—**(1) The inhabitants of the Metropolitan Area are hereby continued a body corporate under the name of "The Municipality of Metropolitan Toronto".

Deemed municipality under R.S.O. 1960, c. 98, 274

(2) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of *The Department of Municipal Affairs Act* and *The Ontario Municipal Board Act* and is a municipality in the County of York separated therefrom for municipal purposes. 1953, c. 73, s. 2.

Deemed city under R.S.O. 1960, c. 249

(3) The Metropolitan Corporation shall be deemed to be a city for the purposes of section 410 of *The Municipal Act*. 1956, c. 53, s. 1.

Council to exercise corporate powers

**3.—**(1) The powers of the Metropolitan Corporation shall be exercised by the Metropolitan Council and, except where otherwise provided, the jurisdiction of the Metropolitan Council is confined to the Metropolitan Area.

(2) Except where otherwise provided, the powers of the By-laws Metropolitan Council shall be exercised by by-law.

(3) A by-law passed by the Metropolitan Council in the exercise of any of its powers and in good faith shall not be open to question, or be quashed, set aside or declared invalid either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. 1953, c. 73, s. 3. Not to be quashed as unreasonable

4.—(1) In every area municipality meetings of electors for the nomination of candidates for council and for trustees of police villages in the Metropolitan Area and for any local board, any members of which are to be elected by ballot by the electors, shall be held in the year 1956 and in every second year thereafter on the second Monday preceding the first Monday in December. Election of council, etc.

(2) The day for polling shall be the first Monday in December and the polls shall be open between the hours of 10 o'clock in the morning and 8 o'clock in the evening. Day for polling

(3) The council of every area municipality and the trustees of every such police village before the 1st day of November, in the year 1956 and in every second year thereafter, shall pass a by-law naming the place or places and time or times at which the nomination meeting or meetings shall be held. Place of nomination meeting

(4) The members of council and of such local boards shall hold office for a two-year term and until their successors are elected and the new council or board is organized. 1956, c. 53, s. 2, *part*. Term of office

(5) This section applies to members of the Metropolitan Separate School Board. 1956, c. 53, s. 2, *part, amended*. Metropolitan Separate School Board

5.—(1) The Metropolitan Council shall be composed of the following persons: Composition of Metropolitan Council

- (a) The head of the council of each area municipality.
- (b) The two members of the board of control of the City of Toronto who at the municipal election next preceding the day the new Metropolitan Council is organized in any year received the highest number of votes.
- (c) The alderman in each ward of the City of Toronto who at the municipal election next preceding the day the new Metropolitan Council is organized in any year received the highest number of votes in such ward.

Acclamation  
or equality  
of votes

(2) If after any election, by reason of acclamation or an equality of votes, it cannot be determined which member or members of the board of control is or are entitled to be a member or members of the Metropolitan Council, the matter shall be determined by resolution of the council of the City of Toronto passed before the organization meeting of the Metropolitan Council.

Idem

(3) If after any election, by reason of acclamation or an equality of votes, it cannot be determined which alderman in any ward of the City of Toronto is entitled to be a member of the Metropolitan Council, the matter shall be determined by resolution of the council of the City of Toronto passed before the organization meeting of the Metropolitan Council. 1953, c. 73, s. 4 (1-3).

Election of  
chairman

(4) At the first meeting of the Metropolitan Council in each year at which a quorum is present, the Metropolitan Council shall organize as a council and elect as chairman one of the members of the Metropolitan Council, or any other person, to hold office for that year and until his successor is elected or appointed in accordance with this section. 1953, c. 73, s. 4 (6), *amended*.

Clerk to  
preside

(5) The clerk of the Metropolitan Corporation shall preside at each such first meeting or, if there is no clerk, the members present shall select a member to preside and the person so selected may vote as a member.

Adjourn-  
ment

(6) If at the first meeting for any reason a chairman is not elected, the clerk or presiding member may adjourn the meeting from time to time and, if a chairman is not elected at any adjourned meeting held within one week after the first meeting, the Lieutenant Governor in Council shall appoint the chairman to hold office for that year and until his successor is elected or appointed in accordance with this section.

Composition

(7) Where a person elected or appointed as chairman is not one of the persons mentioned in subsection 1, the Metropolitan Council shall be composed of such chairman and the persons mentioned in subsection 1. 1953, c. 73, s. 4 (7-9).

First  
meeting of  
Metropolitan  
Council

**6.—**(1) The first meeting of the Metropolitan Council in each year shall be held after the councils of all the area municipalities have held their first meetings in the year but in any event not later than the 15th day of January on such date and at such time and place as may be fixed by by-law of the Metropolitan Council.

First  
meeting of  
area councils

(2) Notwithstanding anything in any general or special Act, the first meeting in each year of the council of each area municipality shall be held not later than the 8th day of January.



(3) A person entitled to be a member of the Metropolitan Council under subsection 1 of section 5 shall not take his seat until he has filed with the person presiding at the first meeting a certificate under the hand of the clerk of the area municipality for which he was elected and under the seal of the area municipality certifying that he is entitled to be a member under such subsection. Certificate of qualification

(4) Where a person elected or appointed as chairman is not one of the persons mentioned in subsection 1 of section 5, he shall, before taking his seat, take an oath of allegiance (Form 1) and a declaration of qualification (Form 2). 1953, c. 73, s. 5 (2-5), *amended*. Oath of allegiance

(5) No business shall be proceeded with at the first meeting until after the declarations of office in Form 20 of *The Municipal Act* have been made by all members who present themselves for that purpose, and each such declaration shall include a declaration that the member has not by himself or a partner, directly or indirectly, any interest in any contract with or on behalf of the Metropolitan Corporation or any local board thereof. Declaration of office R.S.O. 1960, c. 249

(6) The Metropolitan Council shall be deemed to be organized when the declarations of office have been made by at least nine members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. 1953, c. 73, s. 5 (6, 7). When Council deemed organized

7. Subject to section 6, all meetings of the Metropolitan Council shall be held at such place within the Metropolitan Area and at such times as the Metropolitan Council from time to time appoints. 1953, c. 73, s. 6. Place of meetings

8.—(1) Nine members of the Metropolitan Council is necessary to form a quorum and the concurring votes of a majority of members present are necessary to carry any resolution or other measure. Quorum, voting

(2) Subject to subsections 3 and 4, each member of the Metropolitan Council has one vote only. One vote

(3) When in any year the chairman has not been elected from among the members of the Metropolitan Council, the chairman does not have a vote except in the event of an equality of votes. Chairman's vote

(4) When in any year the chairman has been elected from among the members of the Metropolitan Council, the chairman has a second or casting vote in the event of an equality of votes. 1953, c. 73, s. 7. Idem

Term of  
office

**9.** The members of the Metropolitan Council mentioned in subsection 1 of section 5 hold office while they hold the offices mentioned in that subsection and until their successors take office and a new council is organized. 1953, c. 73, s. 8.

Vacancies,  
chairman

**10.**—(1) When a vacancy occurs in the office of a chairman who has been appointed by the Lieutenant Governor in Council, some person shall be appointed by the Lieutenant Governor in Council to hold office as chairman for the remainder of the term of his predecessor.

Idem

(2) When a vacancy occurs in the office of a chairman who has been elected under subsection 4 of section 5, the Metropolitan Council shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a chairman, who may be one of the members of the Metropolitan Council or any other person, to hold office for the remainder of the term of his predecessor. 1953, c. 73, s. 9 (1, 2).

Idem

(3) If the Metropolitan Council fails to elect a chairman within twenty days as required by subsection 1, the Lieutenant Governor in Council may appoint a person as chairman to hold office for the remainder of the term of his predecessor. 1958, c. 68, s. 1 (1).

Other  
members

(4) When a vacancy occurs in the office of a member other than the chairman, the council of the area municipality, of which he was a member, shall within fifteen days after the vacancy occurs appoint his successor from among its members to hold office for the remainder of the term of his predecessor. 1953, c. 73, s. 9 (3).

Resignation  
of chairman

(5) Where the chairman is a member of the council of an area municipality, he may resign his office as chairman without resigning from such council or may resign from such council without resigning his office as chairman. 1953, c. 73, s. 9 (4); 1958, c. 68, s. 1 (2).

Vacancy  
due to  
absence from  
meetings

(6) The seat of a member of the Metropolitan Council becomes vacant if he absents himself continuously from the meetings of the Metropolitan Council during a period of one month without being authorized so to do by a resolution of the Metropolitan Council entered upon its minutes, and the Metropolitan Council shall forthwith declare the seat to be vacant. 1953, c. 73, s. 9 (5).

Remunera-  
tion,  
chairman

**11.**—(1) The chairman may be paid such annual or other remuneration, not exceeding \$15,000 per annum, as the Metropolitan Council may determine. 1953, c. 73, s. 10 (1), *amended*.

members

(2) The members of the Metropolitan Council, other than the chairman, may be paid such annual or other remuneration,

not exceeding \$1,800 per annum, as the Metropolitan Council may determine. 1953, c. 73, s. 10 (2).

**12.**—(1) The Metropolitan Council may by by-law provide for the appointment of an Executive Committee to be composed of the chairman and four or six other members of the Metropolitan Council, one-half of whom shall be members of the council of the City of Toronto and one-half of whom shall be members of the councils of the area municipalities other than the City of Toronto, and the chairman of the Metropolitan Council shall be chairman of the Executive Committee and entitled to vote as a member thereof. <sup>Executive Committee</sup>

(2) The Metropolitan Council may by by-law authorize the Executive Committee to exercise with respect to the Metropolitan Corporation any or all of the powers of a board of control under subsection 1 of section 206 of *The Municipal Act* and in such case subsections 2 to 15 and 17 to 19 of that section apply *mutatis mutandis*. <sup>Powers R.S.O. 1960, c. 249</sup>

(3) Each member of the Executive Committee shall in addition to his remuneration as a member of the Metropolitan Council receive such remuneration not exceeding \$2,000 per year as may be authorized by the Metropolitan Council. <sup>Remuneration</sup>

(4) No by-law passed under subsection 1 or 2 shall be amended or repealed except by a two-thirds vote of all the members of the Metropolitan Council, other than the chairman, and such amendment or repeal shall not become effective until the 31st day of December in the year in which it is passed. 1958, c. 68, s. 2. <sup>Repeal of by-law</sup>

**13.**—(1) The Metropolitan Council may from time to time establish such standing or other committees, and assign to them such duties, as it deems expedient. <sup>Committees of Council</sup>

(2) The Metropolitan Council may by by-law provide for paying an annual allowance not exceeding \$100 to each chairman of a standing committee, except where such chairman is the chairman of the Metropolitan Council. 1953, c. 73, s. 11. <sup>Remuneration of chairmen of committees</sup>

**14.** The Metropolitan Council may pass by-laws for governing the proceedings of the Metropolitan Council and any of its committees, the conduct of its members and the calling of meetings. 1953, c. 73, s. 12. <sup>Procedure by-laws</sup>

**15.** The chairman is the head of the Metropolitan Council and the chief executive officer of the Metropolitan Corporation. 1953, c. 73, s. 13. <sup>Who to be head of Council</sup>



Acting  
chairman

**16.** When the chairman is absent from the Metropolitan Area or absent through illness, or refuses to act, the Metropolitan Council may by resolution appoint one of its members to act in his place and stead, and such member has and may exercise all the rights, powers and authority of the chairman during such absence or refusal to act. 1958, c. 68, s. 3.

Application  
of R.S.O.  
1960, c. 249

**17.** Sections 190, 192, 193, 195, 197, 198, 199, 244, 253 and 275 to 280 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. 1953, c. 73, s. 15; 1957, c. 81, s. 1.

Appointment  
of clerk, and  
his duties

**18.**—(1) The Metropolitan Council shall appoint a clerk, whose duty it is,

- (a) to record truly in a book, without note or comment, all resolutions, decisions and other proceedings of the Metropolitan Council;
- (b) when a recorded vote is requested by a member, to record the name and vote of every member voting on any matter or question;
- (c) to preserve and file all accounts acted upon by the Metropolitan Council;
- (d) to keep in his office, or in the place appointed for that purpose, the originals of all by-laws and of all minutes of the proceedings of the Metropolitan Council and its committees;
- (e) to perform such other duties as may be assigned to him by the Metropolitan Council. 1953, c. 73, s. 16 (1); 1959, c. 65, s. 2.

Deputy clerk

(2) The Metropolitan Council may appoint a deputy clerk who shall have all the powers and duties of the clerk.

Acting clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties, through illness or otherwise, the Metropolitan Council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk. 1953, c. 73, s. 16 (2, 3).

Minutes,  
etc., to be  
open to  
inspection  
and copies  
to be  
furnished

**19.**—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents mentioned in section 18 and the minutes and proceedings of any committee of the Metropolitan Council, whether the acts of the committee have been adopted or not, and other documents in the possession or under the control of the clerk, and the clerk shall, within a reasonable time, furnish copies of them, certified under his hand and the seal of the Metropolitan Corporation,

to any applicant on payment at the rate of 15 cents for every 100 words or at such lower rate as the Metropolitan Council may fix.

(2) A copy of any record, book or document in the possession or under the control of the clerk, purporting to be certified under his hand and the seal of the Metropolitan Corporation, may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. 1953, c. 73, s. 17.

**20.**—(1) The Metropolitan Council shall appoint a treasurer who shall keep the books, records and accounts of the Metropolitan Corporation and who shall perform such other duties as may be assigned to him by the Metropolitan Council.

(2) The Metropolitan Council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer.

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties, through illness or otherwise, the Metropolitan Council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer. 1953, c. 73, s. 18.

**21.**—(1) The treasurer shall receive and safely keep all money of the Metropolitan Corporation, and shall pay out the same to such persons and in such manner as the law of Ontario and the by-laws or resolutions of the Metropolitan Council direct, provided that every cheque issued by the treasurer shall be signed by the treasurer and by some other person or persons designated for the purpose by by-law or resolution of the Metropolitan Council, and any such other person before signing a cheque shall satisfy himself that the issue thereof is authorized.

(2) Notwithstanding subsection 1, the Metropolitan Council may by by-law provide that the signature of the treasurer on cheques may be stamped, lithographed or engraved, or may by by-law designate one or more persons to sign cheques in lieu of the treasurer.

(3) Except where otherwise expressly provided by this Act, a member of the Metropolitan Council shall not receive any money from the treasurer for any work or service performed or to be performed.

(4) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the Metropolitan Council, unless another disposition of it is expressly provided for by statute.

Bank  
accounts

(5) The treasurer shall open an account or accounts in the name of the Metropolitan Corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the Metropolitan Council and shall deposit therein all money received by him on account of the Metropolitan Corporation, and he shall keep the money of the Metropolitan Corporation entirely separate from his own money.

Monthly  
statement  
of assets

(6) The treasurer shall prepare and submit to the Metropolitan Council, monthly, a statement of the money at the credit of the Metropolitan Corporation.

Notice to  
sureties

(7) Where the treasurer is removed from office or absconds, the Metropolitan Council shall forthwith give notice to his sureties. 1953, c. 73, s. 19.

Appointment  
of auditors

**22.**—(1) The Metropolitan Council shall by by-law appoint one or more auditors who shall be persons licensed by the Department as municipal auditors and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the Metropolitan Council, and the auditor or auditors so appointed shall audit the accounts and transactions of the Metropolitan Corporation and of every local board of the Metropolitan Corporation.

Cost of audit

(2) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the Metropolitan Corporation and charged back to the local board, and in the event of a dispute as to the amount of the cost the Department may upon application finally determine the amount thereof.

Disquali-  
fication of  
persons as  
auditors

(3) No person shall be appointed as an auditor of the Metropolitan Corporation who is or during the preceding year was a member of the Metropolitan Council or of the council of an area municipality or of any local board the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the Metropolitan Corporation or an area municipality or any such local board, or any employment with any of them other than as an auditor.

Duties of  
auditor

(4) An auditor shall perform such duties as are prescribed by the Department, and also such duties as may be required by the Metropolitan Council or any local board of the Metropolitan Corporation that do not conflict with the duties prescribed by the Department.

Auditors  
may  
administer  
oaths

(5) An auditor may administer an oath to any person concerning any account or other matter to be audited.



(6) The Metropolitan Council may provide that all accounts shall be audited before payment. 1953, c. 73, s. 20. Audit of accounts before payment

**23.**—(1) The Metropolitan Council may pass by-laws for appointing such officers and employees as it may deem necessary for the purposes of the Metropolitan Corporation, or for carrying into effect the provisions of any Act of the Legislature or by-law of the Metropolitan Council, and for fixing their remuneration and prescribing their duties, and the security to be given for the performance of them. Employees

(2) Except as otherwise provided in this Act, all officers and employees appointed by the Metropolitan Council shall hold office during the pleasure of the Metropolitan Council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act or by by-law of the Metropolitan Council. 1953, c. 73, s. 21. Tenure of office and duties

**24.**—(1) Sections 217, 234 and 236, subsections 4 and 5 of section 238, section 240 and paragraphs 59, 60 and 61 of section 377 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. 1953, c. 73, s. 22 (1); 1955, c. 50, s. 1 (1). Application of R.S.O. 1960 c. 249

(2) In addition to its powers in subsection 1, the Metropolitan Council may pass by-laws for providing pensions for employees, or any class thereof, and their wives and children. Pensions

(a) In this subsection, "employee" means any salaried officer, clerk, workman, servant or other person in the employ of the Metropolitan Corporation or any local board thereof, or of any area municipality or local board thereof, or of the Toronto and York Roads Commission, and includes any person designated as an employee by the Minister. Interpretation

(b) No by-law shall be passed under this subsection except on the affirmative vote of at least two-thirds of the members of the Metropolitan Council present and voting thereon. Two-thirds vote required

(c) No by-law passed under this subsection shall become operative until approved by the Minister nor shall any by-law passed under this subsection and approved by the Minister be amended or repealed without the approval of the Minister. Approval of Minister

(d) A local board of the Metropolitan Corporation, an area municipality, a local board of an area municipality or the Toronto and York Roads Commission may enter into an agreement with the Metropolitan Agreement necessary

Corporation providing that a pension plan established under this subsection shall be applicable to employees or any class thereof of such local board, area municipality or the Toronto and York Roads Commission, and such agreement may provide for the incorporation of the plan of an area municipality, local board or the Toronto and York Roads Commission with the plan established under this subsection and for the transfer of any credits or assets from one plan to the other, but no pension plan established under this subsection applies to an employee of a local board, area municipality or the Toronto and York Roads Commission unless such an agreement has been entered into.

Deductions  
from salary,  
etc.

- (e) Where a pension plan established under this subsection is applicable to an employee of a local board of the Metropolitan Corporation or an employee of an area municipality or a local board thereof or the Toronto and York Roads Commission, the local board, area municipality or the Toronto and York Roads Commission, as the case may be, shall deduct, by instalments from the salary, wages or other remuneration of each employee to whom the by-law is applicable, the amount that such employee is required to pay in accordance with the provisions of the plan and shall pay the amounts deducted to the treasurer of the Metropolitan Corporation.

Employer  
contributions

- (f) Where a pension plan established under this subsection is applicable to an employee of a local board of the Metropolitan Corporation or an employee of an area municipality or a local board thereof or the Toronto and York Roads Commission, the local board or area municipality or the Toronto and York Roads Commission shall pay to the treasurer of the Metropolitan Corporation the employer contributions in respect of such employee in accordance with the provisions of the plan. 1955, c. 50, s. 1 (2).

Pensions

- (3) Where the Metropolitan Corporation or a local board thereof employs a person theretofore employed by an area municipality or a local board thereof, the County of York or the Toronto and York Roads Commission, the employee shall be deemed to remain an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission for the purposes of any pension plan of such area municipality or local board or of the County of York or the Toronto and York Roads Commission, and shall continue to be entitled to all rights and benefits there-

under as if he had remained as an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission, until the Metropolitan Corporation has provided a pension plan for its employees and such employee has elected, in writing, to participate therein or the local board of the Metropolitan Corporation has entered into an agreement under clause *d* of subsection 2. 1955, c. 50, s. 1 (3), *part*; 1957, c. 81, s. 2 (2).

(4) Until such election or an agreement has been entered <sup>Idem</sup> into under clause *d* of subsection 2, the Metropolitan Corporation shall deduct by instalments from the remuneration of the employee the amount that such employee is required to pay in accordance with the provisions of the plan of the area municipality or local board or of the County of York or the Toronto and York Roads Commission and the Metropolitan Corporation shall pay to the area municipality or local board or to the County of York or the Toronto and York Roads Commission in instalments,

(a) the amounts so deducted;

(b) the future service contributions payable under the plan by the area municipality or local board or by the County of York or the Toronto and York Roads Commission. 1955, c. 50, s. 1 (3), *part*; 1957, c. 81, s. 2 (3).

(5) Upon such election or upon such an agreement being entered into and such an employee becoming a member of the pension plan established by the Metropolitan Corporation, he or his beneficiaries are entitled on termination of his services with the Metropolitan Corporation or a local board thereof to all benefits under the pension plan of the area municipality, or of a local board thereof, or of the County of York or of the Toronto and York Roads Commission accrued up to the date of his becoming a member of the Metropolitan Corporation pension plan, and his employment by and service with the Metropolitan Corporation or a local board thereof shall be deemed to be employment by and service with the respective area municipality, or local board thereof, or the County of York or the Toronto and York Roads Commission for the purpose of determining eligibility for any such accrued benefits. 1958, c. 68, s. 4. <sup>Accrued benefits under former plan</sup>

(6) Where the Metropolitan Corporation employs a person theretofore employed by an area municipality or local board thereof or by the County of York or the Toronto and York Roads Commission, the employee shall be deemed to remain an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission <sup>Sick leave credits</sup>



for the purposes of any sick leave credit plan of the area municipality, local board, the County of York or the Toronto and York Roads Commission until the Metropolitan Corporation has established a sick leave credit plan for its employees, whereupon the Metropolitan Corporation shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the area municipality or local board or of the County of York or the Toronto and York Roads Commission.

Holidays

(7) Where the Metropolitan Corporation employs a person theretofore employed by an area municipality or local board thereof or by the County of York or the Toronto and York Roads Commission, the Metropolitan Corporation shall, during the first year of his employment by the Metropolitan Corporation, provide for such employee's holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the area municipality or local board or of the County of York or the Toronto and York Roads Commission. 1955, c. 50, s. 1 (3), *part*.

## PART II

### ASSESSMENT

Appointment  
of assessors

**25.**—(1) The Metropolitan Council shall appoint as many assessors as may be deemed necessary to carry out the duties of assessors in all the area municipalities.

Appointment  
need not  
be annual

(2) Every by-law appointing an assessor remains in force until repealed and it is not necessary to appoint the assessor annually. 1953, c. 73, s. 24.

Assessment  
commis-  
sioner, etc.

**26.**—(1) The Metropolitan Council shall appoint an assessment commissioner and may appoint as many deputy assessment commissioners as may be deemed necessary.

Idem

(2) The assessment commissioner, with respect to the deputy assessment commissioners and assessors, has control and charge over the exercise by them of their powers and over the performance by them of their duties in all the area municipalities.

Jurisdiction

(3) The assessment commissioner may assign to a deputy assessment commissioner or an assessor the area municipality or area municipalities, or part or parts thereof, within which he is to act. 1953, c. 73, s. 25.

Assessment  
officials  
deemed  
officials of  
each area  
municipality

**27.**—(1) The assessment commissioner and every deputy assessment commissioner and every assessor appointed by the Metropolitan Council shall be deemed for the purposes of this

and every other Act to be respectively the assessment commissioner, a deputy assessment commissioner and an assessor of each area municipality.

(2) No area municipality shall, after the 31st day of December, 1953, appoint or continue to employ an assessment commissioner or assessors or constitute or continue a board of assessors. 1953, c. 73, s. 26. <sup>No local assessors</sup>

**28.** Subject to section 29, the Metropolitan Corporation shall provide and pay for all office accommodation, supplies, stationery and equipment, and shall employ such staff, as may be necessary for the performance of the duties of assessors in the Metropolitan Area. 1953, c. 73, s. 27. <sup>Office supplies, etc.</sup>

**29.** At the request of the Metropolitan Council, each area municipality, <sup>Idem</sup>

- (a) shall provide, at such rent as may be agreed upon, at least as much office accommodation for the assessment commissioner, deputy assessment commissioners, assessors and staff as was being provided by the municipality for its assessment department on the 1st day of March, 1953;
- (b) shall transfer to the assessment commissioner without compensation all office supplies and stationery in the possession of the municipality on the 31st day of December, 1953, that was provided for the exclusive use of the assessment department of the municipality;
- (c) shall transfer to the assessment commissioner without compensation all mechanical and other equipment used exclusively by the assessment department of the municipality on the 1st day of March, 1953;
- (d) shall make available to the assessment commissioner, at such rent as may be agreed upon, all mechanical and other equipment the use of which was shared by the assessment department and any other department or departments of the municipality on the 1st day of March, 1953, on the same terms and to the same extent as the assessment department used the equipment before the 1st day of March, 1953. 1953, c. 73, s. 28.

**30.** Every assessment commissioner, every assessor and every other officer or servant of an area municipality shall, at the request of the assessment commissioner of the Metropolitan Corporation, turn over to such assessment commis- <sup>Books, etc.</sup>

sioner all books, records and documents relating to the work of the assessment department of the municipality. 1953, c. 73, s. 29.

R.S.O. 1960,  
c. 23, s. 130,  
not to apply

**31.** Section 130 of *The Assessment Act* does not apply in any area municipality after the 31st day of December, 1953. 1953, c. 73, s. 30.

Courts of  
revision

**32.**—(1) The Metropolitan Council shall constitute by by-law one or more courts of revision for each area municipality.

Members

(2) Each such court of revision shall consist of one or three members, as the by-law may provide, and each member of a court of revision shall be appointed by by-law and shall hold office during pleasure of the Metropolitan Council.

Idem

(3) A member of a court of revision constituted under subsection 1 for one area municipality may also be appointed a member of a court of revision constituted for one or more other area municipalities.

Disqualifi-  
cation as  
members

(4) No person who is or during the preceding year was,

(a) a member of the council of an area municipality or of the Metropolitan Council; or

(b) an officer or employee (other than a member of a court of revision) of an area municipality or of the Metropolitan Corporation,

may be appointed or hold office as a member of a court of revision constituted under this section.

Quorum

(5) Where a court of revision consists of three members, two members are a quorum.

Compensa-  
tion

(6) Each member of a court of revision shall be paid such sum for his services as the Metropolitan Council may by by-law provide.

Courts  
deemed  
constituted  
under  
R.S.O. 1960,  
c. 23

(7) A court or courts of revision constituted for an area municipality under this section shall be deemed for the purposes of this and every other Act to be a court or courts of revision for the area municipality constituted in accordance with *The Assessment Act* and no area municipality shall constitute or continue a court or courts of revision under *The Assessment Act* or any special Act after the 31st day of December, 1953. 1953, c. 73, s. 31 (1-7).

Court of  
revision  
for local  
improve-  
ments

R.S.O. 1960,  
c. 223

(8) A court or courts of revision constituted for an area municipality under this section shall be deemed to be the court or courts of revision constituted for the area municipality for the purposes of *The Local Improvement Act*. 1955, c. 50, s. 2.



(9) All rights of appeal conferred by *The Assessment Act* upon a person assessed in an area municipality may be exercised by such area municipality, or by a person designated by resolution of the council of such area municipality, with respect to an assessment in any other area municipality and with respect to the decision of a court of revision, county judge or the Municipal Board on any appeal with respect to such assessment and, notwithstanding anything in *The Assessment Act*, notice of appeal to the court of revision may be given by such area municipality or by such designated person within twenty-one days after the day upon which the assessment roll with respect to such assessment is returned. 1953, c. 73, s. 31 (8, 9).

Appeals in other area municipalities  
R.S.O. 1960, c. 23

(10) Where an appeal is filed in respect of an assessment of land in an area municipality, the area municipality shall be given notice of such appeal by the assessment commissioner and is entitled to be heard by the court of revision, county judge, Municipal Board or any court. 1957, c. 81, s. 3.

Area municipalities to be given notice of appeals

**33.** Section 56 of *The Assessment Act* applies in each area municipality but for the purposes of that section the Metropolitan Council shall be deemed to be the council of each area municipality. 1953, c. 73, s. 32.

Application of R.S.O. 1960, c. 23, s. 56

**34.** For the purposes of sections 9, 10, 11, 12, 20 and 22 and subsection 5 of section 32 of *The Assessment Act*, each area municipality shall be deemed to be a city having a population of not less than 100,000. 1955, c. 50, s. 3.

Application of R.S.O. 1960, c. 23, to area municipalities

**35.**—(1) For the purposes of additions to the collector's roll of an area municipality under subsection 1 of section 53 of *The Assessment Act*, the 30th day of November of the preceding year is the date referred to in clauses *a*, *b* and *c* of the said subsection 1 in lieu of the 1st day of January.

Additions to collector's roll under R.S.O. 1960, c. 23, s. 53

(2) Where an entry is made in the collector's roll of an area municipality under section 53 of *The Assessment Act* and a notice has been given as provided in subsection 4 of the said section 53 prior to the 10th day of January in any year, the amount of taxes to be levied thereon shall be for the whole current year. 1957, c. 81, s. 4, *part*.

Taxes for whole year

**36.** The additions to be made to the assessment roll of an area municipality under section 54 of *The Assessment Act* shall be made after the return of the roll and on or before the 30th day of November in any year. 1957, c. 81, s. 4, *part*.

Additions to assessment roll under R.S.O. 1960, c. 23, s. 54

Application  
of R.S.O.  
1960, c. 23,  
generally

**37.** Except as otherwise provided in this Act, all the provisions of *The Assessment Act* apply in each area municipality. 1953, c. 73, s. 34.

### PART III

#### METROPOLITAN WATERWORKS SYSTEM

Establish-  
ment of  
waterworks

**38.** For the purpose of supplying to the area municipalities water for the use of the area municipalities and their inhabitants, the Metropolitan Corporation has all the powers conferred by any general Act upon a municipal corporation and by any special Act upon an area municipality or local board thereof, respecting the establishment, construction, maintenance, operation, improvement and extension of a waterworks system. 1953, c. 73, s. 36.

Assumption  
of works  
and main

**39.**—(1) The Metropolitan Council shall before the 1st day of December, 1953, pass by-laws which shall be effective on the 1st day of January, 1954, assuming as part of the metropolitan waterworks system all works for the production, treatment and storage of water vested in each area municipality or any local board thereof and all trunk distribution mains connected therewith, and on the day any such by-law becomes effective the works and mains designated therein vest in the Metropolitan Corporation.

Idem

(2) A by-law under subsection 1 shall designate and describe the works and trunk distribution mains assumed.

Interpre-  
tation

(3) For the purpose of subsection 1, a distribution main shall be deemed to be a trunk distribution main if so declared in the by-law assuming it.

Extension  
of time

(4) Notwithstanding subsection 1, a by-law for assuming any specific work or trunk distribution main may, with the approval of the Municipal Board, be passed after the 1st day of December, 1953, and in that case the by-law becomes effective on the date provided therein.

Metropolitan  
liability

(5) Where the Metropolitan Corporation assumes a work or trunk distribution main vested in an area municipality or local board,

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such work or main, but nothing in this clause requires the Metropolitan

Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work. R.S.O. 1960, c. 223

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default

(7) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the work or trunk distribution main assumed, the Municipal Board, upon application, may determine the matter and its decision is final. 1953, c. 73, s. 37. Settling of doubts

(8) In this section, "works" means buildings, structures, plant, machinery, equipment and appurtenances, devices, conduits, intakes and outlets and underground construction and installations and other works designed for the production, treatment and storage of water and includes lands appropriated for such purposes and uses. 1955, c. 50, s. 4. Interpretation

**40.**—(1) Where an area municipality or a local board thereof has agreed with any other municipality to supply water to that other municipality, and the works and trunk distribution mains used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable for the supply of water in accordance with the agreement and is bound by all the terms thereof and the area municipality or local board is relieved of all liability thereunder. Existing agreements

(2) Notwithstanding subsection 1 and notwithstanding anything in the agreement, the Municipal Board, upon the application of the Metropolitan Council or the council of the municipality to which the water is supplied, has jurisdiction and power from time to time to confirm, vary or fix the rates charged or to be charged in connection with water supplied under the agreement. 1953, c. 73, s. 38. Rates

**41.**—(1) Where all the works of an area municipality or any local board thereof for the production, treatment and storage of water are assumed by the Metropolitan Corporation, the area municipality or local board shall not thereafter establish, maintain or operate any such works. Powers of area municipalities restricted

(2) An area municipality that did not operate any such works on the 31st day of December, 1953, shall not, after that date, establish, maintain or operate any such works. Idem



## Proviso

(3) Nothing in this section limits the powers of an area municipality or local board thereof respecting the use and distribution of water supplied to such area municipality by the Metropolitan Corporation. 1953, c. 73, s. 39.

## Supply beyond limits of local municipality

**42.**—(1) No municipality or local board that is supplied with water by the Metropolitan Corporation shall supply or agree to supply any of such water beyond the limits of the municipality without the approval of the Metropolitan Council.

## Proviso

(2) Nothing in subsection 1 prohibits an area municipality or local board from supplying water to another municipality where the area municipality or local board has agreed to supply such water before the 1st day of April, 1953, and the works and trunk distribution mains used or required in carrying out such agreement have not been assumed by the Metropolitan Corporation. 1953, c. 73, s. 40.

## Regulation of supply, etc.

**43.** The Metropolitan Council may pass by-laws for regulating the time, manner, extent and nature of the supply of water from its waterworks system, and every other matter or thing related to or connected therewith that it may be necessary and proper to regulate in order to secure to the inhabitants of the Metropolitan Area a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds on the Metropolitan Corporation with regard to the water so supplied. 1953, c. 73, s. 41.

## Maintenance, management, etc.

**44.** The Metropolitan Council may pass by-laws for the maintenance and management of its waterworks system and may also by by-law or resolution fix the charges to meet the cost of any work or service done or furnished for the purposes of the supply of water and the rent of or charges for fittings, apparatus, meters or other things leased or furnished to any municipality or local board. 1953, c. 73, s. 42.

## Rates

**45.**—(1) The Metropolitan Council may pass by-laws fixing the rates at which water will be supplied to the area municipalities, and the times and places when and where the rates shall be payable.

## Idem

(2) In fixing the rates, the Metropolitan Council may use its discretion as to the rate or rates to be charged to any area municipality, and may charge different rates to the various area municipalities.

## Self-sustaining

(3) The Metropolitan Council shall so fix the rates at which water is supplied to the area municipalities that the revenues of the waterworks system will be sufficient to make the system

self-sustaining after providing for such maintenance, renewals, depreciation, debt charges and reserves as the Metropolitan Council may think proper.

(4) Clause *k* of subsection 1 of section 53 of *The Ontario Municipal Board Act* does not apply with respect to water supplied by the Metropolitan Corporation to an area municipality. 1953, c. 73, s. 43. R.S.O. 1960,  
c. 274, s. 53,  
subs. 1, cl. *k*,  
not  
applicable

**46.**—(1) The Metropolitan Corporation has power to and shall supply water to the area municipalities, but, subject to subsection 2, shall not supply water to any other person. Retail sale  
prohibited

(2) The Metropolitan Corporation may enter into a contract for the supply of water to any local municipality outside the Metropolitan Area for its use or for resale to the inhabitants thereof for any period not exceeding twenty years, and may renew such contract from time to time for further periods not exceeding twenty years at any one time. 1953, c. 73, s. 44. Sale to  
other municipal-  
ities

**47.** The Metropolitan Council shall keep separate books and accounts of the revenues, expenditures, assets and liabilities of its waterworks system in such manner as may be prescribed by the Department. 1953, c. 73, s. 45. Books and  
accounts

**48.**—(1) Notwithstanding anything in *The Public Utilities Act* or any other general or special Act, the revenues of the waterworks system shall be applied only for, Application  
of revenues  
R.S.O. 1960,  
c. 335

- (a) the reduction of any indebtedness assumed or incurred with respect to the system;
- (b) the operation, maintenance, renewal, improvement or extension of the system;
- (c) the establishment of such reserve funds as the Metropolitan Council may deem proper, to be used at any future time for any purpose mentioned in clause *a* or *b* or for the stabilization of rates,

and any surplus revenues not required for such purposes shall remain credited to the waterworks system accounts and shall not form part of the general funds of the Metropolitan Corporation.

(2) It is not necessary to levy any rate to provide for principal, interest or other payments on account of any debentures issued or assumed by the Metropolitan Corporation Where levy  
unnecessary

for the purposes of the waterworks system except to the extent that the revenues of the system are insufficient to meet the annual payments falling due on account of principal and interest on the debentures.

**Reserve fund** (3) The moneys forming part of a reserve fund established under subsection 1 shall be paid into a special account and may be invested in such securities as a trustee may invest in under *The Trustee Act* and the earnings derived from the investment of such moneys shall form part of the reserve fund.

R.S.O. 1960,  
c. 408

**Application of reserve fund** (4) The moneys forming part of a reserve fund established under subsection 1 shall be applied or expended only for the purposes of the waterworks system. 1953, c. 73, s. 46.

**Disposal of property**

**49.**—(1) Subject to section 56, the Metropolitan Corporation may sell, lease or otherwise dispose of any real or personal property acquired, held or used for or in connection with the waterworks system that, in the opinion of the Metropolitan Council, is no longer required for the purposes of the waterworks system, but where the property is actually used for the purposes of the waterworks system no such sale, lease or other disposition shall be made without the approval of the Municipal Board.

**Proceeds**

(2) The proceeds of any such sale, lease or other disposition shall be applied first in redemption and payment of any indebtedness assumed or incurred in respect of the property disposed of, and the balance shall form part of the revenues of the waterworks system. 1953, c. 73, s. 47.

**Temporary shut-offs**

**50.**—(1) The Metropolitan Corporation is not liable for damages caused by the shut-off or reduction of the amount of water supplied to an area municipality in cases of emergency or breakdown or when it is necessary in maintaining or extending the system, but the Metropolitan Council shall wherever possible give to any area municipality reasonable notice of intention to shut off or reduce the supply of water.

**No breach of contract**

(2) Where the supply of water by the Metropolitan Corporation to an area municipality is interrupted or reduced, the area municipality or its local board may, notwithstanding anything in any contract, allocate and distribute its available water among its customers and may interrupt or decrease the delivery of water under any contract, and nothing done under this subsection shall be deemed to be a breach of contract, or entitle any person to rescind any contract or release any guarantor from the performance of his obligation. 1953, c. 73, s. 48.



**51.**—(1) The Metropolitan Council may pass by-laws<sup>Standards for local systems</sup> establishing standards for and regulating and governing the design, construction and maintenance of local water distribution works by the area municipalities and may provide in any such by-law for the inspection of such local works, and every area municipality and local board shall conform to such by-laws.

(2) No area municipality or local board thereof shall construct or extend any local water distribution works or connect or continue the connection of the same or any part thereof to any work or main of the Metropolitan Corporation without the approval of the Metropolitan Council. 1953, c. 73, s. 49.<sup>Approval of local extensions and connections</sup>

**52.** If the council of an area municipality considers itself<sup>Appeal</sup> aggrieved by the refusal of the Metropolitan Corporation or the Metropolitan Council,

- (a) to assume as a metropolitan work any local work;
- (b) to construct any extension of the metropolitan distribution system;
- (c) to maintain or increase the supply of water to the area municipality;
- (d) to approve the construction or extension of any local water distribution works by the area municipality; or
- (e) to permit the connection or the continuance of a connection to the metropolitan system,

the council may appeal to the Municipal Board which may make such order as it deems advisable in the matter, and the decision of the Municipal Board is final. 1953, c. 73, s. 50.

**53.**—(1) All rates and charges against an area municipality or local board thereof imposed under the authority of this Part are a debt of the area municipality to the Metropolitan Corporation, and the treasurer of every area municipality shall pay the same to the treasurer of the Metropolitan Corporation at the times and in the amounts specified by by-law of the Metropolitan Council.<sup>Payment of charges</sup>

(2) The Metropolitan Council may by by-law provide for uniform rates of discount for prompt payment of charges<sup>Discounts and penalties</sup> for water supplied to the area municipalities and may by by-law provide for the payment of interest in the event of default at a rate not exceeding one-half of 1 per cent for each month or fraction thereof while such default continues. 1953, c. 73, s. 51.

Transfer  
of rights  
over works  
assumed

**54.** The Metropolitan Corporation has, in respect of all works and trunk distribution mains assumed as part of the metropolitan waterworks system, all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the area municipality or area municipalities or their local boards with respect to such works or mains before they were assumed by the Metropolitan Corporation and the Metropolitan Corporation may sue upon such rights or under such by-laws or agreements in the same manner and to the same extent as the area municipality or municipalities or local board or boards might have done if such works or mains had not been assumed. 1953, c. 73, s. 52.

Inspection  
of local  
works

**55.** Any person authorized by the Metropolitan Council has free access from time to time, upon reasonable notice given and request made, to all works for the production and distribution of water within an area municipality and to all lands, buildings and premises used in connection therewith and the right upon the like notice and request to inspect and copy all plans, records and specifications and other information relating to the construction, extension or maintenance of such local works. 1953, c. 73, s. 53.

Reversion  
where mains  
no longer  
required

**56.** Where a distribution main has been assumed by the Metropolitan Corporation under section 39 and, in the opinion of the Metropolitan Council, is no longer required for the purposes of the metropolitan waterworks system but is, in the opinion of the council of the area municipality in which it is situate, required as a local distribution main by the area municipality, the Metropolitan Council shall by by-law remove the main from the metropolitan waterworks system and transfer it to the area municipality. 1953, c. 73, s. 54.

Use of  
metropolitan  
works

**57.** The works and mains assumed by the Metropolitan Corporation under section 39, together with any extensions or additions thereto constructed by the Metropolitan Corporation, may be used by the Metropolitan Corporation for the purpose of supplying and distributing water to any or all of the area municipalities and, subject to subsection 2 of section 46, to any local municipality outside the Metropolitan Area. 1953, c. 73, s. 55.

Application  
of R.S.O.  
1960, c. 335

**58.** Sections 2, 3, 4, 5, 13, 28, 31, 32, 33, 52, 53, 54 and 56 of *The Public Utilities Act* apply *mutatis mutandis* to the Metropolitan Corporation. 1953, c. 73, s. 56.

## PART IV

## METROPOLITAN SEWAGE WORKS

**59.**—(1) In this Part,

Interpre-  
tation

- (a) “capital improvement” means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (b) “land drainage” means storm, surface, overflow, sub-surface or seepage waters or other drainage from land, but does not include sewage;
- (c) “sewage” means domestic sewage or industrial wastes, or both;
- (d) “sewage works” means an integral system consisting of a sewer or sewer system and treatment works;
- (e) “sewer” means a public sewer for common usage for the purpose of carrying away sewage or land drainage, or both;
- (f) “sewer system” means a system of two or more interconnected sewers having one or more common discharge outlets and includes pumping plant, force mains, siphons and other like works;
- (g) “treatment works” means buildings, structures, plant, machinery, equipment, devices, intakes and outfalls or outlets and other works designed for the interception, collection, settling, treating, dispersing, disposing or discharging of sewage or land drainage, or both, and includes land appropriated for such purposes and uses;
- (h) “work” means a sewer, sewer system, sewage works or treatment works, or a capital improvement of any of them.

(2) For the purpose of this Part, a sewer, sewer system or sewage works, whether existing or proposed, shall be deemed to be a trunk sewer, trunk sewer system or trunk sewage works, if so declared by by-law of the Metropolitan Council. 1953, c. 73, s. 58.

**60.** For the purpose of collecting or receiving from the area municipalities, or any of them, sewage and land drainage and the treatment or disposal thereof, the Metropolitan Corporation has all the powers conferred by any general Act upon a municipal corporation and by any special Act upon an area municipality or local board thereof. 1953, c. 73, s. 59.

Genera  
powers



Construction, etc., of trunk sewage works

**61.** The Metropolitan Council may pass by-laws for constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up trunk sewers, trunk sewer systems, trunk sewage works, treatment works and watercourses. 1953, c. 73, s. 60.

Assumption of treatment works

**62.**—(1) The Metropolitan Council shall, before the 1st day of December, 1953, pass by-laws which shall be effective on the 1st day of January, 1954, assuming as metropolitan sewage works all treatment works vested in each area municipality or any local board thereof, and on the day any such by-law becomes effective the works designated therein vest in the Metropolitan Corporation.

Other works

(2) The Metropolitan Council may at any time pass by-laws for assuming any trunk sewer, trunk sewer system, or watercourse vested in any area municipality or local board thereof, but no such by-law becomes effective before the 1st day of January, 1954.

Idem

(3) A by-law under subsection 1 or 2 shall designate and describe the works assumed.

Extension of time

(4) Notwithstanding subsection 1, a by-law for assuming any specific treatment works may, with the approval of the Municipal Board, be passed after the 1st day of December, 1953, and in that case the by-law becomes effective on the date provided therein.

Metropolitan liability

(5) Where the Metropolitan Corporation assumes a work or watercourse vested in an area municipality or local board,

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such work or watercourse, but nothing in this clause requires the Metropolitan Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work.

R.S.O. 1960, c. 223

Default

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

(7) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the work or watercourse assumed, the Municipal Board, upon application, may determine the matter and its decision is final. 1953, c. 73, s. 61. <sup>Settling of doubts</sup>

**63.**—(1) Where an area municipality or a local board thereof has agreed with any other municipality to receive sewage or land drainage from that other municipality, and the works or watercourses used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement and the receiving municipality or local board is relieved of all liability thereunder. <sup>Existing agreements</sup>

(2) Where an area municipality or a local board thereof has agreed with any person other than a municipality to receive sewage or land drainage and the works or watercourses used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement and the area municipality or local board is relieved of all liability thereunder. <sup>Idem</sup>

(3) Notwithstanding subsections 1 and 2 and notwithstanding anything in any such agreement, the Municipal Board, upon the application of the Metropolitan Council or of the council of any area municipality or of any person concerned, may by order terminate any such agreement and adjust all rights and liabilities thereunder. 1953, c. 73, s. 62. <sup>Termination</sup>

**64.**—(1) Where all the treatment works of an area municipality or any local board thereof are assumed by the Metropolitan Corporation, the area municipality shall not thereafter establish, maintain or operate treatment works without the approval of the Metropolitan Council. <sup>Powers of area municipalities restricted</sup>

(2) No area municipality shall establish or enlarge any treatment works after the 1st day of December, 1953, without the approval of the Metropolitan Council. 1953, c. 73, s. 63. <sup>Idem</sup>

**65.** The Metropolitan Council may pass by-laws for the maintenance and management of its sewers, sewer system, sewage works, treatment works and watercourses and regulating the manner, extent and nature of the reception and disposal of sewage and land drainage from the area municipalities and every other matter or thing related to or connected therewith that it may be necessary and proper to regulate <sup>Regulation of system, etc.</sup>

in order to secure to the inhabitants of the Metropolitan Area an adequate system of sewage and land drainage disposal. 1953, c. 73, s. 64.

Special  
benefit

**66.**—(1) Where in the opinion of the Metropolitan Council an area municipality or a portion thereof will or may derive a special benefit from the construction and operation of a work or watercourse, the Metropolitan Council may, with the approval of the Municipal Board, in authorizing the construction, extension or improvement of the work, by by-law provide that the area municipality shall be chargeable with and shall pay to the Metropolitan Corporation such portion of the capital cost thereof as the by-law specifies, and such by-law is binding on the area municipality.

Debenture  
payments

(2) Where debentures are issued for the cost of the work, the area municipality chargeable under the by-law shall make payments to the Metropolitan Corporation with respect to such debentures proportionate to its share of the capital cost as set out in the by-law in the same manner as if debentures for such share had been issued by the Metropolitan Corporation for the purposes of the area municipality.

Raising of  
money  
by area  
municipality

R.S.O. 1960,  
c. 249

(3) The area municipality may pay the amounts chargeable to it under this section out of its general funds or, subject to the approval of the Municipal Board, may pass by-laws under section 380 of *The Municipal Act* for imposing sewer rates to recover the whole or part of the amount chargeable to the area municipality in the same manner as if the work were being or had been constructed, extended or improved by the area municipality. 1953, c. 73, s. 65.

Connecting  
to metro-  
politan  
works or  
watercourses

**67.**—(1) No municipality or person shall connect any local work, local watercourse, private drain or private sewer to a metropolitan work or watercourse without the approval of the Metropolitan Council.

Agreements  
with other  
municipalities

(2) The Metropolitan Corporation may enter into a contract with any local municipality outside the Metropolitan Area to receive and dispose of sewage and land drainage from the local municipality on such terms and conditions as may be agreed upon for any period not exceeding twenty years, and may renew such contract from time to time for further periods not exceeding twenty years at any one time.

Inspection

(3) Any engineer or other officer of the Metropolitan Corporation has power to inspect the plans and specifications of any work referred to in subsection 1 and to inspect the work during its construction and before it is connected with the metropolitan work or watercourse. 1953, c. 73, s. 66.



**68.**—(1) The Metropolitan Council may pass by-laws<sup>Standards for local systems</sup> establishing standards for and regulating and governing the design, construction and maintenance of local works connected or to be connected to a metropolitan work or watercourse, and every area municipality and local board shall conform to such by-laws.

(2) No area municipality or local board thereof shall en-<sup>Approval of local extensions, etc.</sup>large, extend or alter any local work or watercourse that discharges into a metropolitan work or watercourse without the approval of the Metropolitan Council. 1953, c. 73, s. 67.

**69.** If the council of an area municipality considers itself<sup>Appeal</sup> aggrieved by the refusal of the Metropolitan Corporation or the Metropolitan Council,

- (a) to assume as a metropolitan work any local work;
- (b) to construct, extend or improve any metropolitan work;
- (c) to receive any required volume of sewage or land drainage from the area municipality;
- (d) to approve the construction, alteration, improvement or extension of a local work;
- (e) to permit a connection or the continuance of a connection to any metropolitan work,

the council may appeal to the Municipal Board which may make such order as it deems advisable in the matter, and the decision of the Municipal Board is final. 1953, c. 73, s. 68.

**70.**—(1) The Metropolitan Council may pass by-laws,<sup>Special sewage service rates</sup> subject to the approval of the Municipal Board, providing for imposing on and collecting from any area municipality, in respect of the whole or any designated part or parts thereof from which sewage and land drainage is received, a sewage service rate or rates sufficient to pay such portion as the by-law may specify of the annual cost of maintenance and operation of any metropolitan work or works.

(2) All such charges constitute a debt of the area municipality<sup>Idem</sup> to the Metropolitan Corporation and shall be payable at such times and in such amounts as may be specified by by-law of the Metropolitan Council.

(3) The area municipality may pay the amounts chargeable to it under any such by-law out of its general funds or, subject<sup>Raising of money by area municipality</sup> to the approval of the Municipal Board, may pass by-laws under section 380 of *The Municipal Act* for imposing sewage<sup>R.S.O. 1960, c. 249</sup> service rates to recover the whole or part of the amount chargeable to the area municipality. 1953, c. 73, s. 69.

Transfer of  
rights over  
works  
assumed

**71.** The Metropolitan Corporation has, in respect of all works assumed, all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the area municipality or area municipalities or their local boards with respect to such works before they were assumed by the Metropolitan Corporation and the Metropolitan Corporation may sue upon such rights or under such by-laws or agreements in the same manner and to the same extent as the area municipality or municipalities or local board or boards might have done if such works had not been assumed. 1953, c. 73, s. 70.

Inspection  
of local  
works

**72.** Any person authorized by the Metropolitan Council has free access from time to time, upon reasonable notice given and request made, to all works within an area municipality and to all lands, buildings and premises used in connection therewith and the right, upon the like notice and request, to inspect and copy all plans, records and specifications and other information relating to the construction, extension or maintenance of such local works. 1953, c. 73, s. 71.

Use of  
metropolitan  
works

**73.** Any works assumed by the Metropolitan Corporation under the authority of section 62, together with any extensions or additions thereto constructed by the Metropolitan Corporation, may be used by the Metropolitan Corporation for the purpose of receiving and disposing of sewage and land drainage from any or all of the area municipalities and, subject to subsection 2 of section 67, from any local municipality outside the Metropolitan Area. 1953, c. 73, s. 72.

## PART V

### METROPOLITAN ROAD SYSTEM

Interpre-  
tation

**74.** In this Part,

- (a) "approved" means approved by the Minister or of a type approved by the Minister;
- (b) "Department" means the Department of Highways;
- (c) "Minister" means the Minister of Highways. 1953, c. 73, s. 74.

Existing  
county roads  
in Area

**75.** Unless assumed as a metropolitan road by the by-law mentioned in section 76, all roads within the Metropolitan Area or on the boundary between the Metropolitan Area and an adjoining county that, on the 31st day of December, 1953, form part of the county road system of the County of York established under *The Highway Improvement Act* shall, on the 1st day of January, 1954, revert or be transferred to the corporations of the local municipalities in which they are situate. 1953, c. 73, s. 75.

**76.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council shall by by-law establish a metropolitan road system in the Metropolitan Area by assuming roads in any area municipality and may include in the system such boundary line roads or portions thereof between the Metropolitan Area and an adjoining county as may be agreed upon between the Metropolitan Council and the council of such county, and the by-law shall designate the roads to be assumed as metropolitan roads and intended to form the metropolitan road system. Establishment of metropolitan road system

(2) The by-law shall be passed not later than the 31st day of October, 1953, and shall come into force on the 1st day of January, 1954. Time for passing: effective date

(3) The Metropolitan Corporation shall submit the by-law to the Minister for approval by the Lieutenant Governor in Council on or before the 31st day of October, 1953, and upon receipt of the application for such approval the Minister may obtain such report thereon as he may deem necessary and may hear the council of any area municipality that may be dissatisfied therewith before presenting the application for consideration to the Lieutenant Governor in Council. Submission of by-law for approval

(4) The Lieutenant Governor in Council may approve the by-law in whole or in part and where the by-law is approved in part only it shall be enforced and take effect so far as approved, but it is not necessary for the Metropolitan Council to pass any further by-law amending the original by-law or repealing any portion thereof which has not been so approved. Approval or amendment

(5) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council may amend the by-law from time to time by adding roads to or removing roads from the metropolitan road system or in any other manner. 1953, c. 73, s. 76 (1-5). Amendment of by-law

(6) Where a road or a part thereof is added to the metropolitan road system, the soil and freehold of such road or part is thereupon vested in the Metropolitan Corporation. Metropolitan roads vested in Metropolitan Corporation

(7) Where a road or a part thereof is removed from the metropolitan road system, except by reason of it being stopped-up pursuant to section 87, such road or part is thereupon transferred to and the soil and freehold thereof is thereupon vested in the corporation of the local municipality in which it is situate. 1958, c. 68, s. 5. Roads removed from system

(8) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Corporation may from time to time pass a by-law consolidating its by-law establishing the metropolitan road system and all by-laws amending such by-law. 1953, c. 73, s. 76 (7). Consolidating by-law



Submission  
of by-law  
covering  
estimated  
expenditure

**77.**—(1) The Metropolitan Corporation shall submit a by-law covering the estimated expenditure on metropolitan roads for the calendar year to the Department for the Minister's approval, not later than the 31st day of March of the year in which the expenditure is to be made. 1953, c. 73, s. 77 (1); 1956, c. 53, s. 3.

Subsidy

(2) No subsidy shall be granted by the Department for work undertaken by the Metropolitan Corporation that has not been provided for by a by-law duly approved by the Minister. 1953, c. 73, s. 77 (2).

Annual  
statement  
to Minister

**78.**—(1) The Metropolitan Council shall annually and may with the consent of the Minister at any time during the progress of its work in connection with the metropolitan road system submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the engineer or other officer of the Metropolitan Corporation who is charged with the responsibility of directing and supervising the work that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister and with the approval of the proper officer of the Department;
- (c) a declaration of the treasurer of the Metropolitan Corporation that the statement of receipts and expenditures is correct; and
- (d) a petition for the payment of the grant, authorized by resolution of the Metropolitan Council.

Payment to  
Corporation

(2) Upon receipt of the statement, declarations and petition and the approval thereof by the proper officer of the Department, the Minister may direct payment to the treasurer of the Metropolitan Corporation out of moneys appropriated therefor by the Legislature of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases of doubt or dispute the decision of the Minister is final. 1953, c. 73, s. 78.

Certain  
expenditures  
not included  
in statement

**79.** No expenditure towards which a special contribution has been or may be made from any source shall be included in a statement submitted under section 78 except with the consent of the Minister. 1953, c. 73, s. 79.

Expenditures  
eligible for  
subsidy

**80.** Expenditures that shall be deemed to be properly chargeable to road improvement include those made for the purpose of,

- (a) opening a new metropolitan road and acquiring the necessary land therefor;
- (b) clearing a metropolitan road of obstructions;
- (c) widening, altering or diverting a metropolitan road;
- (d) subject to section 3 of *The Public Service Works on Highways Act*, defraying 50 per cent of the cost of labour only in taking up, removing or changing the location of appliances or works placed on or under a metropolitan road by an operating corporation; R.S.O. 1960, c. 333
- (e) constructing and maintaining bridges, culverts or other structures incidental to the construction of a metropolitan road excepting sanitary or storm sewers or drains;
- (f) grading a metropolitan road;
- (g) constructing and maintaining an approved base for the road surface on a metropolitan road including the installing and maintaining of approved under-drainage therefor other than sanitary or storm sewers or drains;
- (h) constructing and maintaining any approved type of road surface on a metropolitan road;
- (i) constructing and maintaining necessary curbs, gutters and catch basins on a metropolitan road;
- (j) clearing snow from and applying chemicals or abrasives to icy surfaces on a metropolitan road;
- (k) establishing and laying out a new road under section 86 and constructing such new road as part of the metropolitan road system before actually assuming it is a metropolitan road by amending the by-law passed under section 76; and
- (l) such other work of road improvement as the Minister may approve. 1953, c. 73, s. 80; 1955, c. 50, s. 5.

**81.** Every road constructed or repaired as part of the metropolitan road system shall be so constructed and repaired in accordance with the requirements of the Minister. 1953, c. 73, s. 81. In accordance with requirements of Minister

**82.** The Metropolitan Corporation has, in respect of the roads or streets included in the metropolitan road system, all Powers over roads assumed

the rights, powers, benefits and advantages conferred, and is subject to all liabilities imposed, either by statute, by-law, contract or otherwise upon The Corporation of the County of York or the corporation of the area municipality or the corporations of two or more area municipalities which had jurisdiction over the roads before they were assumed by the Metropolitan Corporation, and the Metropolitan Corporation may sue upon such rights or under such agreements or by-laws in the same manner and to the same extent as the County of York or the area municipality or municipalities, as the case may be, might have done if the roads had not been assumed as metropolitan roads. 1953, c. 73, s. 82.

Sidewalks  
excepted

**83.**—(1) The Metropolitan Corporation is not by reason of assuming a road under this Act liable for the building, maintenance or repair of sidewalks on any metropolitan road or portion thereof, but the area municipality in which such sidewalks are located continues to be liable for the maintenance and repair of such sidewalks and is responsible for any injury or damage arising from the construction or presence of the sidewalks on such road or portion thereof to the same extent and subject to the same limitations to which an area municipality is liable under section 443 of *The Municipal Act*, in respect of a sidewalk on a road over which a council has jurisdiction. 1953, c. 73, s. 83 (1); 1955, c. 50, s. 6.

R.S.O. 1960,  
c. 249

Area municipalities may  
construct  
sidewalks,  
etc.

(2) The council of an area municipality may construct or put down a sidewalk or other improvement or service on a metropolitan road but no such work shall be undertaken by a municipal corporation or any individual or company without first obtaining the written consent of the Metropolitan Council expressed by resolution.

How cost  
provided

R.S.O. 1960,  
c. 223

(3) The cost of any sidewalk constructed on a metropolitan road may be met out of the general funds of the area municipality or the work may be undertaken as a local improvement under *The Local Improvement Act*.

Area municipality to  
conform to  
requirements  
and be  
responsible  
for damages

(4) An area municipality when constructing a sidewalk or other improvements or service on a metropolitan road under this section shall conform to any requirements or conditions imposed by the Metropolitan Council and is responsible for any injury or damage arising from the construction or presence of the sidewalk, improvements or service on the road. 1953, c. 73, s. 83 (2-4).

R.S.O. 1960,  
c. 171, s. 100,  
subs. 4,  
not to apply

(5) Subsection 4 of section 100 of *The Highway Improvement Act* does not apply to a sidewalk constructed on a metropolitan road by the council of a township. 1953, c. 73, s. 83 (5); 1957, c. 81, s. 5.



**84.** Where a metropolitan road intersects a road that is not a metropolitan road, the continuation of the metropolitan road to its full width across the road intersected, including the bridges and culverts thereon or touching thereon, is a part of the metropolitan road system except in the case of an intersection by a metropolitan road of the King's Highway, and in that case the full width of the intersection shall be deemed to be part of the King's Highway. 1953, c. 73, s. 84.

Intersection  
of other  
roads by  
metropolitan  
road

**85.** When land abutting on a metropolitan road is dedicated for highway purposes for, or apparently for, the widening of the metropolitan road, the land so dedicated is part of the metropolitan road and the soil and freehold thereof is vested in the Metropolitan Corporation subject to any rights in the soil reserved by the person who dedicated the land. 1957, c. 81, s. 6.

Dedication  
of lands  
abutting  
metropolitan  
roads for  
widening  
purposes

**86.** Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council may pass by-laws for establishing and laying out new roads and for amending the by-law passed under section 76 by assuming such new roads as part of the metropolitan road system and the provisions of *The Municipal Act* with respect to the establishment and laying out of highways by municipalities apply *mutatis mutandis*. 1953, c. 73, s. 85.

New roads

R.S.O. 1960,  
c. 249

**87.** With respect to the metropolitan roads, the Metropolitan Corporation has all the powers conferred, and is subject to all the liabilities imposed, upon the council or corporation of a city under *The Municipal Act*, *The Highway Traffic Act* and any other Act with respect to highways. 1953, c. 73, s. 86; 1958, c. 68, s. 6.

Powers and  
liabilities of  
Corporation

R.S.O. 1960,  
cc. 249, 172

**88.—(1)** Where the name of a highway is a duplication or is similar to the name of another highway in the Metropolitan Area, the Metropolitan Council may pass by-laws for changing the name of any such highway, and no area municipality thereafter has power to change the name of such highway.

Names of  
highways

(2) A by-law passed under subsection 1 shall recite the fact of such duplication or similarity, and the change shall take effect when a certified copy of the by-law is registered in the proper registry or land titles office. 1955, c. 50, s. 7.

When by-law  
effective

**89.—(1)** The Metropolitan Council may by by-law prescribe a lower or higher rate of speed for motor vehicles driven upon any metropolitan road or any portion of a metro-

Speed  
limits on  
metropolitan  
roads

politan road than is prescribed in subsection 1 of section 59 of *The Highway Traffic Act*, but such rate of speed shall not be less than 25 miles per hour or more than 60 miles per hour.

R.S.O. 1960,  
c. 172

Approval of by-laws (2) No by-law passed under subsection 1 shall become effective until approved by the Department of Transport and the metropolitan roads or portions thereof affected by the by-law shall be marked to comply with the regulations made under *The Highway Traffic Act*. 1960, c. 72, s. 1, *part*.

Speed limits in metropolitan parks

**90.** The Metropolitan Council may by by-law prescribe the rate of speed for motor vehicles driven on lands vested in the Metropolitan Corporation under Part XV in accordance with subsection 4 of section 59 of *The Highway Traffic Act*. 1960, c. 72, s. 1, *part*.

Use of untravelled portions of metropolitan roads for parking

**91.** The Metropolitan Council may by by-law empower the council of any area municipality to lease or license the use of untravelled surface portions of metropolitan roads within those portions of the area municipality zoned for commercial or industrial purposes to the owners or occupants of property abutting on such roads to be used solely for the parking of vehicles. 1960, c. 72, s. 1, *part*.

Planting trees

**92.** The Metropolitan Council may plant trees on a metropolitan road and the cost of the work shall be deemed to be part of the cost of repairing and maintaining the road. 1953, c. 73, s. 87.

Procedure on expropriation of land

**93.—**(1) Where, in the exercise of its powers or in the performance of its obligations under this Act, the Metropolitan Corporation finds that it is necessary to expropriate land for the purpose of establishing, laying out, opening up, widening, improving, protecting from erosion, altering or diverting a metropolitan road, the Metropolitan Corporation may, instead of the procedure provided by *The Municipal Act*, proceed in the manner provided by *The Public Works Act* in the case of lands taken by the Minister of Public Works for the purposes of Ontario without the consent of the owner of such lands, and the provisions of *The Public Works Act mutatis mutandis* apply, and the powers and duties of the Minister of Public Works as set out in *The Public Works Act* may be exercised and performed in the name of the Metropolitan Corporation.

R.S.O. 1960,  
cc. 249, 338

Plan and description, filing of

(2) The plan and description of the lands taken, required by section 17 of *The Public Works Act* to be deposited in the registry office, shall be signed by the chairman and clerk of the Metropolitan Corporation and by an Ontario land sur-

veyor, and upon the deposit of the plan and description the land becomes and is vested in the Metropolitan Corporation. 1953, c. 73, s. 88.

**94.**—(1) Sections 452 and 454 of *The Municipal Act* do not apply to a bridge or highway crossing or forming a boundary between the Metropolitan Area and an adjoining county where such bridge or highway is included in the metropolitan road system and in the county road system of the county. Disputes as to maintenance, etc., of bridges and highways

(2) When there is a difference between the Metropolitan Council and the council of a county in respect of any such bridge or highway as to the corporation upon which the obligation rests for the building, maintaining or keeping in repair of the bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the Metropolitan Council and the council of the county are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Municipal Board upon an application by the Metropolitan Corporation or the corporation of the county. Idem

(3) The Municipal Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or highway, and the Municipal Board may make such order in regard to the same as it may deem just and proper, and may by the order fix and determine the amount or proportion which each municipality shall pay or contribute toward the building, maintaining and keeping in repair of such bridge or highway. Hearing by Municipal Board

(4) An order made by the Municipal Board under this section is binding upon the municipalities for such period as the Municipal Board may determine, and is final and conclusive. 1953, c. 73, s. 89. Term of order

**95.** Clause *b* of subsection 1 of section 419 of *The Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between area municipalities, and the councils of the area municipalities on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the metropolitan road system. 1953, c. 73, s. 90. Boundary bridges R.S.O. 1960 c. 249

**96.** Section 434 of *The Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between the Metropolitan Area and an Idem



adjoining county, and the councils of the area municipality and the local municipality in the adjoining county on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the metropolitan road system. 1953, c. 73, s. 91.

**Restrictions** **97.**—(1) The Metropolitan Council has, with respect to all land lying within a distance of 150 feet from any limit of a metropolitan road, all the powers conferred on the council of a local municipality by section 30 of *The Planning Act*. 1955, c. 50, s. 8.

R.S.O. 1960,  
c. 296

**Conflict with local by-law** (2) In the event of conflict between a by-law passed under subsection 1 by the Metropolitan Council and a by-law passed under section 30 of *The Planning Act* or a predecessor of such section by the council of the area municipality in which the land is situate, the by-law passed by the Metropolitan Council prevails to the extent of such conflict, but in all other respects the by-law passed by the council of the area municipality remains in full force and effect. 1953, c. 73, s. 92 (2).

**Controlled-access roads**

**98.**—(1) Subject to the approval of the Municipal Board, the Metropolitan Corporation may by by-law designate any metropolitan road, or any portion thereof, as a metropolitan controlled-access road. 1953, c. 73, s. 93 (1); 1959, c. 65, s. 3.

**Closing municipal roads**

(2) Subject to the approval of the Municipal Board, the Metropolitan Corporation may by by-law close any municipal road that intersects or runs into a metropolitan controlled-access road.

**Notice of application for approval of closing road**

(3) The Municipal Board may direct that notice of any application for approval of the closing of a road under this section shall be given at such times, in such manner and to such persons as the Municipal Board may determine, and may further direct that particulars of claims in respect of land injuriously affected by the closing of the road shall be filed with the Municipal Board and the Metropolitan Corporation within such time as the Municipal Board shall direct.

**Claim, when not to be allowed**

(4) No claim by or on behalf of any person who has not filed the particulars of claim within the time directed by the Municipal Board shall be allowed except by leave of the Municipal Board.

**Order of Municipal Board**

(5) Upon the hearing of the application for approval of the closing of a road, the Municipal Board may make such order as it deems proper refusing its approval or granting its

approval upon such terms and conditions as it deems proper, and any order of the Municipal Board approving of the closing of a road may contain provisions,

- (a) determining the portion or portions of the road that shall be closed;
- (b) providing that the approval shall be subject to the making of compensation to persons whose land is injuriously affected by the closing of the road,
  - (i) by the payment by the Metropolitan Corporation to any of such persons of such damages as may be fixed by the Municipal Board,
  - (ii) by the providing of another road for the use of any such persons,
  - (iii) by the vesting of any portion of the road allowance so closed in any of such persons notwithstanding any other Act, and
  - (iv) in such other manner as the Municipal Board may deem proper;
- (c) providing for the payment of the costs of any person appearing on such application and fixing the amount of such costs; and
- (d) providing for the doing of such other acts as in the circumstances it deems proper.

(6) Upon the approval of the Municipal Board being so obtained but subject to the provisions of the order of the Municipal Board made on the application for such approval, the Metropolitan Corporation may do all such acts as may be necessary to close the road in respect of which the application is made. Closing road

(7) Where, at any time after making application for the approval of the Municipal Board of the closing of a road, the Metropolitan Corporation discontinues its application or, having obtained such approval, does not proceed with the closing of the road and does not pay the compensation provided for in the order of the Municipal Board, the Municipal Board may, upon the application of any person whose land would be injuriously affected by the closing of the road and who has appeared upon such application for approval, make such order as to costs against the Metropolitan Corporation as it deems proper and may fix the amount of such costs. Idem

(8) Any person who claims to be injuriously affected by the closing of a road may, by leave of the Court of Appeal, appeal to that court from any order of the Municipal Board Appeal

approving the closing of such road, and the Metropolitan Corporation may, upon like leave, appeal from any order of the Municipal Board made on an application under this section.

Leave to  
appeal

(9) The leave may be granted on such terms as to the giving of security for costs and otherwise as the court may deem just.

Practice and  
procedure  
on appeal

(10) The practice and procedure as to the appeal and matters incidental thereto shall be the same, *mutatis mutandis*, as upon an appeal from a county court, and the decision of the Court of Appeal is final.

R.S.O. 1960,  
c. 274, s. 95  
not to apply

(11) Section 95 of *The Ontario Municipal Board Act* does not apply to an appeal under this section. 1953, c. 73, s. 93 (2-11).

Private  
roads, etc.,  
opening upon  
metropolitan  
controlled-  
access road

**99.**—(1) The Metropolitan Corporation may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, gate or other structure or facility as a means of access to a metropolitan controlled-access road and may impose penalties for contravention of any such by-law.

Notice

(2) The Metropolitan Corporation may give notice to the owner of any land requiring him to close up any private road, entranceway, gate or other structure or facility constructed or used as a means of access to a metropolitan controlled-access road in contravention of a by-law passed under subsection 1.

Service of  
notice

(3) Every notice given under subsection 2 shall be in writing and shall be served personally or by registered mail and in the case of service by registered mail shall be deemed to have been received on the second day following the mailing thereof.

Failure to  
comply with  
notice

(4) Where the person to whom notice is given under subsection 2 fails to comply with the notice within thirty days after its receipt, the Metropolitan Corporation may by resolution direct any officer, employee or agent of the municipality to enter upon the land of such person and do or cause to be done whatever may be necessary to close up the private road, entranceway, gate or other structure or facility as required by the notice.

Offence

(5) Every person who fails to comply with a notice given under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence.



(6) Where a notice given under subsection 2 has been complied with, the Metropolitan Corporation shall make due compensation to the owner of the land if the private road, entranceway, gate or other structure or facility constructed or used as a means of access to a metropolitan controlled-access road was constructed or used, as the case may be,

- (a) before the day on which the by-law designating the road as a metropolitan controlled-access road became effective; or
- (b) in compliance with a by-law passed under subsection 1, in which case the making of compensation is subject to any provisions of such by-law.

(7) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11 of *The Highway Improvement Act*, which subsections apply *mutatis mutandis*. 1959, c. 65, s. 4.

**100.** Sections 95, 97, 98, 99, 102 and 105 of *The Highway Improvement Act* apply *mutatis mutandis* to any metropolitan road. 1953, c. 73, s. 95; 1957, c. 81, s. 7.

**101.** For the purposes of subsection 1 of section 45 and Part VIII of *The Highway Improvement Act*, the Metropolitan Corporation shall be deemed to be the corporation of a city having a population of more than 50,000 situate within the County of York but separated therefrom for municipal purposes, and the said Part VIII applies to the Metropolitan Corporation, but no area municipality has any liability or authority under that Part. 1953, c. 73, s. 96; 1955, c. 50, s. 9; 1957, c. 81, s. 8.

**102.** In addition to the liability of the Metropolitan Corporation for the expenditures on suburban roads under section 101, the Metropolitan Council may contribute such amount as the Metropolitan Council deems proper as its appropriate share of the administrative expenses of the Toronto and York Roads Commission. 1956, c. 53, s. 4.

**103.** The Metropolitan Council may contribute such amount as the Metropolitan Council deems proper as its share of the cost of maintenance of the part of the Malton Road in the County of Peel extending from the County of York to the Malton Airport thereby assuming the liability of The Corporation of the City of Toronto under an agreement dated July 2, 1943, but not to exceed 25 per cent of the annual maintenance costs of such part of the road. 1959, c. 65, s. 5.

Commission  
continued

**104.** The Toronto and York Roads Commission, established under Part III of *The Highway Improvement Act*, being chapter 166 of the Revised Statutes of Ontario, 1950, is continued. 1953, c. 73, s. 97 (1) *amended*.

County  
roads  
continued  
and made  
suburban  
roads

**105.** All roads forming part of the county road system of the County of York on the 31st day of December, 1953, except those vested in a local municipality under section 75 or assumed by by-law of the Metropolitan Council under section 76, continue to form part of the county road system of the County of York, and are suburban roads for all the purposes of Part VIII of *The Highway Improvement Act*, until changed in accordance with *The Highway Improvement Act*. 1953, c. 73, s. 98; 1957, c. 81, s. 9.

R.S.O. 1960,  
c. 171

Metropolitan  
liability  
when road  
assumed

**106.**—(1) Where the Metropolitan Corporation assumes as a metropolitan road any road in an area municipality, other than a road mentioned in section 75,

(a) no compensation or damages shall be payable to the area municipality in which it was vested;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such road, but nothing in this clause requires the Metropolitan Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work. 1953, c. 73, s. 99 (1).

R.S.O. 1960,  
c. 223

Liability  
re Bayview  
bridge

(2) Notwithstanding subsection 1, the Metropolitan Corporation shall, after the 1st day of January, 1956, pay to The Corporation of the Township of North York before the due date all amounts of principal and interest becoming due upon any outstanding debentures of the Bayview Avenue bridge that are payable as the owners' share of such local improvement work. 1956, c. 53, s. 5.

Default

(3) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling  
of doubts

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the road assumed, the Municipal Board, upon application, may determine the matter and its decision is final. 1953, c. 73, s. 99 (2, 3).

**107.**—(1) Where an area municipality intends to stop up <sup>Stopping up highways</sup> a highway or part of a highway, it shall so notify the secretary of the board of the Metropolitan Toronto Planning Area by registered mail.

(2) If the Metropolitan Toronto Planning Board objects <sup>Agreement</sup> to such stopping up, it shall so notify the council of the area municipality by registered mail within twenty-one days of the receipt of the notice under subsection 1 and the highway or part thereof concerned shall not be stopped up except by agreement between the area municipality and the board and failing agreement the Municipal Board, upon application, may determine the matter and its decision is final.

(3) In the case of a township in the Metropolitan Area, <sup>Approval of judge not required</sup> it is not necessary to obtain the approval of the judge of the county court to such stopping up under section 459 of *The R.S.O. 1960, c. 249* *Municipal Act*. 1956, c. 53, s. 6.

## PART VI

### METROPOLITAN TRANSPORTATION

**108.** In this Part,

<sup>Interpre-</sup>  
<sup>tation</sup>

- (a) "Commission" means the Toronto Transit Commission established under this Part;
- (b) "Former Commission" means The Toronto Transportation Commission. 1953, c. 73, s. 101.

**109.** The Toronto Transit Commission is continued with <sup>Commission established</sup> the powers, rights, authorities and privileges vested in it by this Act. 1953, c. 73, s. 102, *amended*.

**110.**—(1) The Commission is a body corporate and shall <sup>Corporation members</sup> consist of five members appointed, except as provided in subsection 2, by by-law of the Metropolitan Council.

(2) The first members of the Commission shall be,

<sup>First</sup>  
<sup>members</sup>

- (a) the three members of the Former Commission in office on the 31st day of December, 1953;
- (b) two members appointed by by-law of the Metropolitan Council before the 1st day of January, 1954, each of whom shall be a ratepayer and a resident of one of the area municipalities other than the City of Toronto.

(3) Of the three members of the Commission who take <sup>Term of office, first members</sup> office under clause a of subsection 2, the Metropolitan Council shall by by-law passed before 1st day of January, 1954,



designate one who shall hold office until the 31st day of December, 1956, one who shall hold office until the 31st day of December, 1957, and one who shall hold office until the 31st day of December, 1958; of the two members appointed under clause *b* of subsection 2, the Metropolitan Council shall by by-law passed before the 1st day of January, 1954, designate one who shall hold office until the 31st day of December, 1954, and one who shall hold office until the 31st day of December, 1955.

- General (4) A member shall hold office until his successor is appointed and, except in the case of the first members or the filling of a vacancy occurring during a term of office, a member shall be appointed for a term of five years.
- Qualification (5) No person is eligible to be appointed as a member of the Commission unless he is a resident and a ratepayer of an area municipality.
- Councillors disqualified (6) No member of the Metropolitan Council or of the council of an area municipality is eligible to be appointed as a member of the Commission.
- Two-thirds vote (7) No appointment of a member of the Commission shall be made except on the affirmative vote of at least two-thirds of the members of the Metropolitan Council present and voting.
- Re-appointment (8) A member of the Commission is eligible for re-appointment on the expiration of his term of office.
- Vacancies (9) Where the office of a member of the Commission becomes vacant during his term of office, the Metropolitan Council shall immediately appoint a member who shall hold office for the remainder of the term for which his predecessor was appointed.
- Quorum (10) Three members of the Commission constitute a quorum.
- Remuneration (11) The members of the Commission shall be paid such salary or other remuneration as may be fixed by by-law of the Metropolitan Council. 1953, c. 73, s. 103.

Assets vested in Commission **111.**—(1) On the 1st day of January, 1954, there is hereby vested in the Commission,

- (a) all the undertaking, assets and real and personal property, wherever situate, owned by, vested in or held by the Former Commission, including the capital stock of Gray Coach Lines Limited held by it;

- (b) all real and personal property acquired or held by The Corporation of the City of Toronto for the purposes of or on behalf of the Former Commission;
- (c) all real and personal property acquired or held by any area municipality in respect of any service furnished by the Former Commission to such municipality or any portion thereof.

(2) The Commission, on the 1st day of January, 1954, <sup>Liabilities</sup> shall assume all liabilities of the Former Commission, and shall assume all liabilities of any area municipality incurred in respect of any property vested in the Former Commission under subsection 1.

(3) Subject to section 121, no compensation or damages <sup>No compensation or damages</sup> shall be payable to the Former Commission or any area municipality in respect of any undertaking, assets and property vested in the Commission under this section.

(4) In the event of any doubt as to whether any particular <sup>Settling of doubts</sup> asset or liability is vested in the Commission by this section, the Municipal Board, upon application, shall determine the matter and its decision is final and not subject to appeal.

(5) For the purposes of *The Registry Act*, *The Land Titles Act*, *The Bills of Sale and Chattel Mortgages Act* or any other <sup>Transfer of title</sup> Act affecting title to property, it is sufficient to cite this Act <sup>R.S.O. 1960, cc. 348, 204, 34</sup> to show the transmission of title to the Commission and the vesting therein of any real or personal property or any interest therein, but, if an order has been made by the Municipal Board under subsection 4, the order shall be cited as well.

(6) The Former Commission is dissolved as of the 1st day <sup>Former Commission dissolved</sup> of January, 1954. 1953, c. 73, s. 104 (1-6).

(7) On or after the 1st day of January, 1954, the Com- <sup>Pension fund society</sup> mission in relation to the Toronto Transportation Commission Pension Fund Society, a corporation subject to part VI of *The Corporations Act* and incorporated by letters patent <sup>R.S.O. 1960, c. 71</sup> dated the 3rd day of January, 1940, shall stand in the place and stead of the Former Commission. 1953, c. 73, s. 104 (7); 1957, c. 81, s. 10.

(8) The name of the said Toronto Transportation Com- <sup>Idem</sup> mission Pension Fund Society is changed to "Toronto Transit Commission Pension Fund Society". 1953, c. 73, s. 104 (8).

**112.—**(1) The Commission may provide by contract <sup>Sick benefit plan</sup> with an insurer licensed under *The Insurance Act* or with an <sup>R.S.O. 1960, cc. 190, 304</sup> association registered under *The Prepaid Hospital and Medical Services Act* or with a corporation to be known as the

R.S.O. 1960,  
c. 71 Toronto Transit Commission Sick Benefit Association, to be established subject to Part VI of *The Corporations Act*, for weekly sick-pay, special service, medical and surgical benefits for employees or any class thereof of the Commission and their wives or husbands and dependent children and retired employees in accordance with this section and for contributing toward the cost thereof.

Commission contributions (2) No contract under subsection 1 shall authorize contributions by the Commission in excess of the total of those made by the employees.

Idem (3) The Commission shall only make contributions in respect of,

(a) regular employees who have been employed for at least sixty days with the Commission and their wives or husbands and dependent children;

(b) retired employees who reside in Ontario and who elect to continue the benefits,

and shall not make contributions in respect of temporary or seasonal employees or dependants of regular employees other than wives or husbands and dependent children.

Special benefits for other dependants (4) Special service and medical and surgical benefits may be provided for dependants other than wives or husbands and dependent children of regular employees, and for dependants of retired employees, who so elect, provided the cost thereof shall be borne by such employees.

Sick-pay benefits (5) Sick-pay benefits shall not be provided for other than active regular employees of the Commission.

Greater sick-pay on election of employee (6) Weekly sick-pay in an amount greater than may be provided under the other provisions of this section may be provided for such employees who elect to bear the excess cost of such greater sick-pay.

Administration costs (7) The Commission may assume the cost of the administration of the benefits provided under this section.

Benefits validated (8) The sick-pay, special service and medical and surgical benefits provided or to be provided before the 1st day of January, 1961, and contributions made in relation thereto by The Toronto Transportation Commission, the Toronto Transit Commission, the Toronto Transportation Commission Sick Benefit Association and the Toronto Transit Commission Sick Benefit Association are hereby confirmed and declared to be legal and valid. 1960, c. 72, s. 2.

Existing agreements **113.**—(1) Where the Former Commission has agreed with any area municipality or other municipality or person, or any



two or more of them, for services to be provided by the Former Commission, the Commission shall, on the 1st day of January, 1954, assume all liabilities and is entitled to all benefits of the Former Commission under such agreement and the Former Commission is relieved of any liability thereunder.

(2) Notwithstanding subsection 1 and notwithstanding Termination anything in any such agreement, the Municipal Board, upon the application of the Commission or of any municipality or person who is a party to such agreement, may by order terminate or vary such agreement and adjust all rights and liabilities thereunder. 1953, c. 73, s. 105.

**114.** No further investment in the capital stock of Gray Coach Lines, Limited shall be made by the Toronto Transit Commission, nor shall the capitalization of Gray Coach Lines, Limited hereafter be increased until the consent of the Metropolitan Council is first obtained thereto. 1959, c. 65, s. 6.

**115.** On and after the 1st day of January, 1954, the Commission, Powers and  
duties of  
Commission

- (a) shall consolidate and co-ordinate all forms of local passenger transportation within the Metropolitan Area, with the exception of steam railways and taxis, and shall plan for the future development of such transportation so as to serve best the inhabitants of the Metropolitan Area;
- (b) has and may exercise, with respect to the entire Metropolitan Area, all the powers, rights, authorities and privileges with respect to the construction, maintenance, operation, extension, alteration, repair, control and management of local passenger transportation which the Former Commission had with respect to any part of the Metropolitan Area on the 31st day of December, 1953;
- (c) has and may exercise all the powers, rights, authorities and privileges with respect to the construction, maintenance, operation, extension, alteration, repair, control and management of local passenger transportation systems heretofore or hereafter conferred upon or exercisable by the council or corporation of any area municipality, and such powers, rights, authorities and privileges shall not be exercised by any area municipality or its council or by the Metropolitan Corporation or the Metropolitan Council. 1953, c. 73, s. 106.

Specific  
powers

**116.**—(1) The Commission has, in particular, but not so as to restrict its general powers and duties, the following powers and duties:

- (a) To construct, maintain, operate, extend, alter, repair, control and manage a local transportation system within the Metropolitan Area by means of surface, underground or over head railways, tramways or buses, or any other means of local transportation except steam railways and taxis.
- (b) To establish new local passenger transportation services in the Metropolitan Area as and when required and to alter, curtail or abolish any services if the Commission deems it desirable so to do.
- (c) To fix such tolls and fares and establish such fare zones so that the revenue of the Commission shall be sufficient to make all transportation facilities under its control and management self-sustaining, after providing for such maintenance, renewals, depreciation, debt charges and reserves as it may think proper.
- (d) To purchase, lease, acquire and use any real or personal property for its purposes, but the Commission shall not acquire any property that is to be paid for by moneys raised on the issue of debentures of the Metropolitan Corporation unless the approval of the Metropolitan Council has first been obtained.
- (e) To make requisitions upon the Metropolitan Corporation for all sums of money necessary to carry out its powers and duties but nothing in this Act divests the Metropolitan Council of its authority with reference to providing the money required for such works, and when such money is provided by the Metropolitan Corporation the treasurer of the Metropolitan Corporation shall upon the certificate of the Commission pay out any money so provided.

Expropri-  
ation

(2) The power of the Metropolitan Council to acquire land for the purposes of the Metropolitan Corporation includes the power to acquire land for the purposes of the Commission. 1953, c. 73, s. 107.

Agreements

**117.**—(1) The Commission may enter into an agreement with any person, or with one or more area municipalities, or with one or more other municipalities situated within twenty-five miles of the Metropolitan Area, under which the Commission will operate a local passenger transportation service upon such terms as may be agreed upon, but every such agreement shall provide that any deficit in operations shall be

paid by the person or municipality or municipalities, and if the agreement is with one or more municipalities the agreement shall provide that any surplus in operations shall be credited to the municipality or municipalities.

(2) Where an agreement is entered into under subsection 1 <sup>Surplus or deficit</sup> with one or more municipalities, the council of any such municipality may pass by-laws,

- (a) providing that any deficit charged to the municipality shall be payable out of, and any surplus shall be credited to, the general funds of the municipality; or
- (b) with the approval of the Municipal Board, providing that any deficit shall be assessed against, and any surplus shall be credited to, the rateable property in any area or areas of the municipality defined in the by-law. 1953, c. 73, s. 108.

**118.**—(1) For the purposes of *The Public Vehicles Act* and the regulations with respect to registration fees under *The Highway Traffic Act*, the Metropolitan Area shall be deemed to be one urban municipality and, for the purpose of *The Public Commercial Vehicles Act*, the Metropolitan Area shall be deemed to be one urban zone. 1956, c. 53, s. 7 (1). <sup>Application of R.S.O. 1960, cc. 337, 172, 319</sup>

(2) Except in accordance with an agreement made under subsection 3, no person other than the Commission shall, after the 1st day of July, 1954, operate a local passenger transportation service within the Metropolitan Area, with the exception of steam railways, taxis, buses owned and operated by a board of education, school board or private school and buses owned and operated by any corporation or organization solely for the purposes of the corporation or organization provided no fare or fee is charged for transportation. 1956, c. 53, s. 7 (2). <sup>Exclusive authority</sup>

(3) An agreement may be entered into between the Commission and any person legally operating a local public passenger transportation service wholly within or partly within and partly without the Metropolitan Area on the 1st day of January, 1954, under which such person may continue to operate such service or any part thereof for such time and upon such terms and conditions as such agreement provides. <sup>Agreements</sup>

(4) Where a local public passenger transportation service is legally operating wholly within the Metropolitan Area on the 1st day of April, 1953, and continues in operation, and will be required by subsection 2 to cease to operate within <sup>Existing services</sup>



the Metropolitan Area on the 1st day of July, 1954, or upon the termination of an agreement made under subsection 3,

- (a) the Commission may agree with the owner of the service, not later than one month before the date upon which the service will be required to cease to operate, to purchase the assets and undertaking used in providing the service; and
- (b) if no agreement is entered into under clause *a*, the assets and undertaking used in providing the service, not disposed of by the owner thereof before the date upon which the service is required to cease to operate, shall vest in the Commission on that date.

*Idem*

(5) Where a local public passenger transportation service is legally operating partly within and partly without the Metropolitan Area on the 1st day of April, 1953, and continues in operation, and will be required by subsection 2 to cease to operate within the Metropolitan Area on the 1st day of July, 1954, or upon the termination of an agreement made under subsection 3,

- (a) the Commission may agree with the owner of the service, not later than one month before the date upon which the service will be required to cease to operate within the Metropolitan Area, to purchase the assets and undertaking used in providing the entire service or to purchase the portion thereof that is allocated to the provision of the service within the Metropolitan Area; and
- (b) if no agreement is entered into under clause *a*, the portion of the assets and undertaking that is allocated to the provision of the service within the Metropolitan Area, not disposed of by the owner thereof before the date upon which the service is required to cease to operate, shall vest in the Commission on that date.

*Compensation*

(6) Where the whole or a portion of the assets and undertaking used in or allocated to the provision of a local public passenger transportation service vests in the Commission, the Commission shall pay due compensation therefor to the owner thereof, based upon the value to the owner of the assets and undertaking used in providing the service where the service was operated wholly within the Metropolitan Area, and based upon the proportion of such value that is allocated to the provision of the service within the Metropolitan Area where the service was operated partly within and partly without the Metropolitan Area.

(7) The amount of any compensation payable under this section or any question of allocation, if not mutually agreed upon, shall be determined by the Municipal Board, and the decision of the Municipal Board on any question of allocation is final. Compensation and allocation

(8) The Commission shall be deemed to be a street railway company for the purposes of *The Railways Act*. Application of R.S.O. 1950, c. 331

(9) Where a local public passenger transportation service operating partly within and partly without the Metropolitan Area is required by subsection 2 to cease to operate within the Metropolitan Area and thereupon discontinues the portion of its service beyond the Metropolitan Area, the Municipal Board may, on the application of any municipality, order the Commission to furnish a similar service upon such terms and conditions and to such extent as may be fixed by the Municipal Board. Outside service

(10) Where the Municipal Board orders the Commission to furnish a service under subsection 9, the Commission shall be deemed to have applied for an operating licence under *The Public Vehicles Act*, and the Ontario Highway Transport Board shall issue a certificate of public necessity and convenience, with respect thereto. 1953, c. 73, s. 109 (3-10). Certificate of public necessity and convenience R.S.O. 1960, c. 337

(11) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of \$50 for the first offence and \$300 for each subsequent offence. 1956, c. 53, s. 7 (3). Offence

**119.** Immediately after the close of each calendar year, the Commission shall prepare, deliver to the Metropolitan Council, and publish, Annual report

(a) a complete audited and certified financial statement of its affairs, including revenue and expense account, balance sheet and profit and loss statement;

(b) a general report of its operations during that calendar year. 1953, c. 73, s. 110.

**120.**—(1) All claims, actions and demands arising from or relating to the construction, maintenance, operation, extension, alteration, repair, control and management of the Commission's transportation system and property, or arising from the exercise of any of the powers of the Commission, shall be made upon and brought against the Commission and not upon or against the Metropolitan Corporation or any area municipality. Actions, etc., against Commission

(2) The Commission may sue and be sued in its own name. *Idem* 1953, c. 73, s. 111.

Existing  
debenture  
liability

**121.**—(1) On and after the 1st day of January, 1954, the Metropolitan Corporation shall pay to each area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by that area municipality in respect of any property vested in the Commission under subsection 1 of section 111 or issued by that area municipality for or on behalf of the Former Commission.

Payments by  
Commission

(2) The Commission shall pay to the Metropolitan Corporation, before the date mentioned in subsection 1, the amount which the Metropolitan Corporation is liable to pay on that date under subsection 1.

Default

(3) If the Metropolitan Corporation fails to make any payment as required by subsection 1, or if the Commission fails to make any payment as required by subsection 2, the area municipality may charge the Metropolitan Corporation, or the Metropolitan Corporation may charge the Commission, as the case may be, interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling  
of doubts

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of any property vested in the Commission under subsection 1 of section 111 or for or on behalf of the Former Commission, the Municipal Board, upon application, may determine the matter and its decision is final. 1953, c. 73, s. 112.

Grants re  
free trans-  
portation  
for blind,  
etc.

**122.** The Metropolitan Council may make an annual grant of not more than \$50,000 to the Toronto Transit Commission toward the cost of providing free transportation for blind persons and war amputees. 1956, c. 53, s. 8.

Tax  
exemption  
re Bloor-  
Danforth-  
University  
Subway

**123.**—(1) So long as the lands and easements heretofore or hereafter acquired by the Metropolitan Corporation for the right of way of the extension to the rapid transit system of the Commission known as the Bloor-Danforth-University Avenue Subway are owned by the Metropolitan Corporation and used by the Commission for the purpose of the Subway, such lands and easements and any buildings and structures thereon so owned and used are exempt from business and real property taxation and the Commission is not liable for payments in lieu thereof under section 43 of *The Assessment Act*.

R.S.O. 1960,  
c. 23

Application

(2) Subsection 1 does not apply to lands and buildings and structures thereon used as car yards or shops for or in connection with such Subway nor to concessions operated, rented or leased in any such buildings or structures.



(3) The exemption provided by subsection 1 shall be deemed to be an exemption from taxation provided by section 4 of *The Assessment Act*. 1960, c. 72, s. 3.

Deemed exemption under R.S.O. 1960, c. 23, s. 4

## PART VII

## EDUCATION

**124.** In this Part,

Interpretation

- (a) "Department" means the Department of Education;
- (b) "Minister" means the Minister of Education;
- (c) "public school division" means the area in which a board of education or a public school board has jurisdiction for public school purposes;
- (d) "regulations" means regulations made under *The Department of Education Act*; R.S.O. 1960, c. 94
- (e) "resident pupils" means pupils,
  - (i) who reside with their parents or guardians, or
  - (ii) who or whose parents or guardians are assessed for an amount equal to the average assessment of the ratepayers,

within the limits of a high school district for secondary school purposes, or a public school division for public school purposes, within the Metropolitan Area, but does not include pupils residing with their parents or guardians on land that is exempt from taxation for school purposes, who and whose parents or guardians are not assessed for, and do not pay, taxes for secondary school purposes or public school purposes, respectively, in the high school district or public school division;

- (f) "School Board" means The Metropolitan School Board constituted under this Part. 1953, c. 73, s. 114; 1957, c. 81, s. 11.

**125.** On the 1st day of January, 1954, School Section No. 9 of the Township of Etobicoke,

School Section No. 9, Etobicoke,

- (a) is detached from Union School Section 5, 9 and 22 of the Townships of Toronto Gore, Etobicoke and Vaughan, subject to the adjustment by arbitration of all rights and claims pursuant to section 32 of *The Public Schools Act*, being chapter 316 of the Revised Statutes of Ontario, 1950; and R.S.O. 1950, c. 316
- (b) is added to the township school area of the Township of Etobicoke and its assets are vested in The Board added to township school area

1949, c. 122

of Education for the Township of Etobicoke established under *The Township of Etobicoke Act, 1949*, subject to its liabilities. 1953, c. 73, s. 115 (1).

Township of  
North York  
a township  
school area

**126.**—(1) On and after the 1st day of January, 1954, the whole of the Township of North York is created a township school area. 1953, c. 73, s. 116 (1).

Board of  
education  
for North  
York

R.S.O. 1960,  
cc. 362, 330

(2) In the year 1954 and thereafter there shall be a board of education for the Township of North York, to be known as The Board of Education for the Township of North York, and the members of the board of education shall be elected and appointed and the board organized in accordance with *The Secondary Schools and Boards of Education Act*, except that the qualifications of elective members shall be those of urban school trustees as provided in *The Public Schools Act*. 1953, c. 73, s. 116 (2); 1957, c. 81, s. 12 (1), *amended*.

Election  
by wards

(3) The elective members of the said board of education shall consist of two members to be elected in each ward of the Township. 1953, c. 73, s. 116 (3); 1957, c. 81, s. 12 (2), *amended*.

Dissolution  
of existing  
boards, etc.

(4) On the day on which the said board of education holds its first meeting,

- (a) The Collegiate Institute Board of the Township of North York and all public school boards of the Township of North York are dissolved;
- (b) all the powers and duties of such boards shall be carried on by the said board of education which has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon a public school board in a rural municipality, a high school board or a board of education;
- (c) all the property theretofore vested in such boards is vested in the board of education; and
- (d) all debts, contracts and agreements for which such boards were liable are obligations of the board of education. 1953, c. 73, s. 116 (4).

Township of  
Scarborough  
a high school  
district and  
township  
school area

**127.**—(1) On and after the 1st day of January, 1954,

- (a) the present high school district in the Township of Scarborough is enlarged to include the whole of the Township of Scarborough;
- (b) the continuation school district of School Section No. 14 of the Township of Scarborough is dissolved;
- (c) the whole of the Township of Scarborough is created a township school area;

- (d) Union School Section No. 9 and 17 of the Townships of Markham and Scarborough and Union School Section No. 11 and 4 of the Townships of Scarborough and Pickering are dissolved, subject to the adjustment by arbitration of all rights and claims pursuant to section 32 of *The Public Schools Act*,<sup>R.S.O. 1950, c. 316</sup> being chapter 316 of the Revised Statutes of Ontario, 1950. 1953, c. 73, s. 117 (1).

(2) In the year 1954 and thereafter there shall be a board of education for the Township of Scarborough, to be known as <sup>Board of education for Scarborough</sup> The Board of Education for the Township of Scarborough, and the members of the board of education shall be elected and appointed and the board organized in accordance with *The Secondary Schools and Boards of Education Act*, except that the qualifications of elective members shall be those of urban school trustees as provided in *The Public Schools Act*.<sup>R.S.O. 1960, cc. 362, 330</sup> 1953, c. 73, s. 117 (2); 1957, c. 81, s. 13 (1), *amended*.

(3) The elective members of the said board of education shall consist of two members to be elected in each ward of the Township. <sup>Election by wards</sup> 1953, c. 73, s. 117 (3); 1957, c. 81, s. 13 (2), *amended*.

(4) On the day on which the said board of education holds its first meeting, <sup>Dissolution of existing boards, etc.</sup>

- (a) The Collegiate Institute Board of the Township of Scarborough, The Board of Trustees of the Continuation School of Agincourt, and all public school boards of the Township of Scarborough are dissolved;
- (b) all the powers and duties of such boards shall be carried on by the said board of education which has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon a public school board in a rural municipality, a high school board or a board of education;
- (c) all the property theretofore vested in such boards is vested in the board of education; and
- (d) all debts, contracts and agreements for which such boards were liable are obligations of the board of education. 1953, c. 73, s. 117 (5).

**128.** All the provisions of *The Secondary Schools and Boards of Education Act* that are not inconsistent with this <sup>Application of R.S.O. 1960, c. 362</sup> Act apply to the boards of education created by sections 126 and 127 in the same manner and to the same extent as if such boards of education had been created by by-laws pursuant to *The Secondary Schools and Boards of Education Act*. 1953, c. 73, s. 118; 1957, c. 81, s. 14.



Metropolitan  
School Board  
continued

**129.**—(1) The Metropolitan School Board is continued a corporation with the powers and duties and for the purposes set out in this Act. 1953, c. 73, s. 119 (1), *amended*.

Composition  
of School  
Board

(2) Subject to subsection 5, the School Board shall be composed of the following persons;

- (a) The chairman of The Board of Education for the City of Toronto.
- (b) The chairman of The Board of Education for the Township of York.
- (c) The chairman of The Board of Education for the Township of East York.
- (d) The chairman of The Board of Education for the Township of Etobicoke.
- (e) The chairman of The Board of Education for the Town of Leaside.
- (f) The chairman of The Board of Education for the Town of Weston.
- (g) The chairman of The Lakeshore District Board of Education.
- (h) The chairman of The Board of Education for the Village of Forest Hill.
- (i) The chairman of The Board of Education for the Village of Swansea.
- (j) The chairman of The Board of Education for the Township of Scarborough.
- (k) The chairman of The Board of Education for the Township of North York.
- (l) The member, in each ward, of The Board of Education of the City of Toronto who at the municipal election next preceding the day the new School Board is organized in any year received the highest number of votes in such ward.
- (m) Two representatives to be appointed by the Toronto and Suburban Separate School Board, as if the School Board were a municipal board of education established under *The Secondary Schools and Boards of Education Act*, but one of such representatives shall be a resident of the City of Toronto and the other a resident of one of the other area municipalities. 1953, c. 73, s. 119 (2); 1956, c. 53, s. 9 (1); 1957, c. 81, s. 15.

(3) If after any election, by reason of an acclamation or an equality of votes, it cannot be determined which member of The Board of Education of the City of Toronto from any ward is entitled to be a member of the School Board, the matter shall be determined by resolution of that board of education passed before the organization meeting of the School Board.

Acclamation  
or equality  
of votes

(4) If the chairman of The Board of Education of the City of Toronto is also the person entitled to be a member under clause 1 of subsection 2, the other member of that board representing the same ward shall also be a member of the School Board. 1953, c. 73, s. 119 (3, 4).

Where  
chairman  
of Toronto  
board also  
member

(5) Where the chairman of an area board declines to serve his term as representative on the School Board, he shall so notify the area board in writing on or before the second Wednesday of January and in such case the area board shall by resolution passed before the first meeting of the School Board appoint one of its members to be the representative of the area board on the School Board. 1956, c. 53, s. 9 (2).

Where  
chairman of  
area board  
declines to  
serve on  
School Board

(6) At the first meeting of the School Board in each year, at which a quorum is present, the School Board shall organize as a board and elect as chairman one of their members or any other person, to hold office for that year and until his successor is elected or appointed in accordance with this section.

Election of  
chairman

(7) The members present at the first meeting shall select a member to preside and the person so selected may vote as a member.

Presiding  
member

(8) If at the first meeting for any reason a chairman is not elected, the presiding member may adjourn the meeting from time to time, and, if a chairman is not elected at any adjourned meeting held within one week after the first meeting, the Lieutenant Governor in Council shall appoint the chairman to hold office for that year and until his successor is elected or appointed in accordance with this section.

Adjourn-  
ment

(9) Where a person elected or appointed as chairman is not one of the persons mentioned in subsection 2, the School Board shall be composed of such chairman and the persons mentioned in subsection 2. 1953, c. 73, s. 119 (6-9).

Composition

**130.**—(1) The first meeting of the School Board in each year shall be held not later than the third Wednesday in January on such date and at such time and place as may be fixed by resolution of the School Board.

First  
meeting in  
year

(2) A person entitled to be a member of the School Board under subsection 2 of section 129 shall not take his seat until he has filed with the person presiding at the first meeting a certificate under the hand of the secretary of the public school

Certificate of  
qualification

board or board of education for which he was elected, or of the Toronto and Suburban Separate School Board, as the case may be, and under the seal of such board certifying that he is entitled to be a member under subsection 2 of section 129.

Oath of  
allegiance

(3) Where a person elected or appointed as chairman is not one of the persons mentioned in subsection 2 of section 129, he shall, before taking his seat, take an oath of allegiance.

Certificates  
of office

(4) No business shall be proceeded with at the first meeting until after the certificates mentioned in subsection 2 have been filed by all the members who present themselves for that purpose.

When  
School Board  
deemed  
organized

(5) The School Board shall be deemed to be organized when the certificates have been filed by at least nine members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to file such certificate. 1953, c. 73, s. 120 (2-6).

Place of  
meetings

**131.** Subject to section 130, all meetings of the School Board shall be held at such places within the Metropolitan Area and at such times as the School Board from time to time appoints. 1953, c. 73, s. 121.

Quorum,  
voting

**132.—**(1) Nine members of the School Board are necessary to form a quorum and the concurring votes of a majority of members present are necessary to carry any resolution or other measure.

One vote

(2) Subject to subsections 3 and 4, each member of the School Board has one vote only.

Chairman's  
vote

(3) When in any year the chairman has not been selected from among the members of the School Board, the chairman does not have a vote except in the event of an equality of votes.

Idem

(4) When in any year the chairman has been selected from among the members of the School Board, the chairman has a second or casting vote in the event of an equality of votes.

Voting by  
separate  
school repre-  
sentatives

(5) A member of the School Board appointed under clause *m* of subsection 2 of section 129 shall not vote or otherwise take part in any of the proceedings of the School Board exclusively affecting the public schools. 1953, c. 73, s. 122.

Term of  
office,  
generally

**133.—**(1) The members of the School Board, other than those mentioned in clause *m* of subsection 2 of section 129, shall hold office while they hold the offices mentioned in that subsection and until their successors take office and a new School Board is organized. 1953, c. 73, s. 123 (1).



(2) The appointment and tenure of office of members of the School Board mentioned in clause *m* of subsection 2 of section 129 should be in accordance with subsections 12 and 13 of section 56 of *The Secondary Schools and Boards of Education Act*. 1953, c. 73, s. 123 (2); 1957, c. 81, s. 16, amended. <sup>Separate school representatives</sup> R.S.O. 1960, c. 362

**134.**—(1) When a vacancy occurs in the office of a chairman who has been appointed by the Lieutenant Governor in Council, some person shall be appointed by the Lieutenant Governor in Council to hold office as chairman for the remainder of the term of his predecessor. <sup>Vacancies, chairman</sup>

(2) When a vacancy occurs in the office of a chairman who has been elected under subsection 6 of section 129, the School Board shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a chairman, who may be one of the members of the School Board or any other person, to hold office for the remainder of the term of his predecessor. <sup>Idem</sup>

(3) When a vacancy occurs in the office of a member, other than the chairman or a member referred to in clause *m* of subsection 2 of section 129, the board of education of which he was a member shall within fifteen days after the vacancy occurs appoint his successor from among its members to hold office for the remainder of the term of his predecessor. <sup>Other members</sup>

(4) When a vacancy occurs in the office of a member referred to in clause *m* of subsection 2 of section 129, the Toronto and Suburban Separate School Board shall, within fifteen days after the vacancy occurs, appoint his successor to hold office for the remainder of the term of his predecessor. <sup>Idem</sup>

(5) Where the chairman of the School Board is a member of a board of education, he may resign his office as chairman without resigning from such board of education. <sup>Resignation of chairman</sup>

(6) The seat of a member of the School Board shall become vacant if he absents himself from the meetings of the School Board for three consecutive months without being authorized so to do by a resolution of the School Board entered upon its minutes, and the School Board shall forthwith declare the seat to be vacant. 1953, c. 73, s. 124. <sup>Vacancy due to absence from meetings</sup>

**135.**—(1) The School Board shall in each year pay to each board of education within the Metropolitan Area, in monthly instalments, a maintenance assistance payment in respect of, <sup>Maintenance assistance payments</sup>

(a) each resident pupil, of a public school division within the Metropolitan Area, of average daily

attendance during the current year in the public elementary schools under the jurisdiction of that board;

- (b) each resident pupil, of a high school district within the Metropolitan Area, of average daily attendance during the current year enrolled in an academic secondary course in schools under the jurisdiction of that board;
- (c) each resident pupil, of a high school district within the Metropolitan Area, of average daily attendance during the current year enrolled in a commercial secondary course in schools under the jurisdiction of that board; and
- (d) each resident pupil, of a high school district within the Metropolitan Area, of average daily attendance during the current year enrolled in a technical secondary course in schools under the jurisdiction of that board. 1953, c. 73, s. 125 (1); 1957, c. 81, s. 17; 1958, c. 68, s. 7 (1), *amended*.

Idem

R.S.O. 1960,  
cc. 330, 362

(2) Where a resident pupil attends a school situated outside the Metropolitan Area that he has a right to attend under *The Public Schools Act* or *The Secondary Schools and Boards of Education Act*, the maintenance assistance payments provided for in subsection 1 shall be paid to the board of education of the public school division or high school district of which he is a resident pupil, as the case may be, in the same manner and to the same extent as if the pupil attended a school under the jurisdiction of such board. 1955, c. 50, s. 10.

Amounts

(3) The amounts per pupil that shall be payable by the School Board in each year shall be determined by the School Board in each such year prior to the adoption of its estimates and separate amounts shall be determined in respect of the pupils of the various classes referred to in clauses *a*, *b*, *c* and *d* of subsection 1 and such separate amounts per pupil shall be uniform for each board of education within the Metropolitan Area.

Notice

(4) The School Board shall annually, forthwith after the determination of the amounts referred to in subsection 3, notify each board of education within the Metropolitan Area of the amount of the maintenance assistance payment payable for such year in respect of each pupil within the classes referred to in clauses *a*, *b*, *c* and *d* of subsection 1. 1958, c. 68, s. 7 (3).

Maintenance  
assistance  
payments  
increased in  
certain cases

(5) The School Board may increase the maintenance payments provided for in this section in respect of,

- (a) pupils who reside in a public school division and attend a public school in another public school division as determined by the School Board; and

- (b) pupils who reside in a high school district and attend a secondary school in another high school district as determined by the School Board. 1956, c. 53, s. 10.

(6) Where a child, who is a ward of the Children's Aid Society or whose mother is his sole support, has the right to attend a public or secondary school in an area municipality without payment of a fee, he has the right to attend a public or secondary school in any area municipality without payment of a fee, and, where he does attend a public or secondary school in an area municipality, the School Board shall pay to the board of education of the area municipality a maintenance assistance payment and, notwithstanding any other Act, the net cost of education of such child less the amount of such maintenance assistance payment. 1960, c. 72, s. 4, *amended*.

Wards of  
Children's  
Aid Society,  
etc.

**136.**—(1) It is the duty of the School Board and it has power, Powers and  
duties of  
School Board

- (a) to require each board of education within the Metropolitan Area to prepare and submit to the School Board, from time to time as the School Board may prescribe, its proposals and recommendations with respect to the provision of adequate public elementary and secondary school accommodation within its jurisdiction, and the estimated cost thereof;
- (b) to review and consolidate all such proposals, in consultation with the boards of education, the Department, the councils of the area municipalities and the Metropolitan Council and their respective officials, and to prepare and revise from time to time a composite proposal and the recommendations of the School Board for the provision of adequate public elementary, academic secondary and vocational secondary school accommodation for the Metropolitan Area as a whole;
- (c) to submit to the Metropolitan Council from time to time the composite proposal referred to in clause b, together with all relevant information with respect thereto, including any tentative approvals of the Department for legislative grant purposes relating thereto;
- (d) notwithstanding the provisions of this or any other Act, to review and to determine, in consultation with the respective boards of education, the boundaries of the attendance areas for those public elementary and secondary schools in the Metropolitan Area that are to be attended by resident pupils from



more than one public school division or high school district;

- (e) notwithstanding the provisions of this or any other Act, to determine the basis upon which and the conditions under which fees, if any, on behalf of resident pupils of one public school division or high school district in the Metropolitan Area attending a school in another public school division or high school district in the Metropolitan Area shall be paid by the sending board to the receiving board, and the net amount of such fees after allowance has been made for the maintenance assistance payments paid to the receiving board in respect of such pupils;
- (f) notwithstanding the provisions of this or any other Act, to determine the basis upon which the cost of transportation, if any, of the resident pupils of one public school division or high school district in the Metropolitan Area attending a school in another public school division or high school district in the Metropolitan Area shall be paid, and the respective responsibilities therefor of the sending board, the receiving board and the School Board;
- (g) notwithstanding the provisions of this or any other Act, to make provision, if deemed expedient, for the payment to any board of education of any part or the whole of the cost of the education of pupils attending classes established under Part V of *The Schools Administration Act* and other special classes authorized by the Minister, to the extent that such cost or part thereof exceeds the maintenance assistance payments paid in respect of such pupils;
- (h) to appoint a treasurer, who shall be the treasurer of the Metropolitan Corporation, a secretary and such other officers and staff as may be deemed expedient for the purposes of the School Board, to pay their salaries and, subject to the regulations, to prescribe their duties, and to provide and pay for office accommodation, furnishings, fuel, light, stationery, equipment, insurance and miscellaneous expenses, including travelling expenses of officers of the School Board, if authorized by the School Board;
- (i) if deemed expedient, to pay to each member a mileage allowance not exceeding 7 cents for each mile necessarily travelled by him in going to the meetings of the School Board from his home and in returning to his home, and to pay to each member an expense allowance not exceeding \$300 per annum;

(j) to prepare, adopt and submit each year to the Metropolitan Council, on or before such date and in such form as the Metropolitan Council may prescribe, the estimates of the School Board for the current year, separately for public elementary and for secondary school purposes, of all sums required to meet its expenditures and obligations under section 135 and this section, and such estimates shall include and make due allowance for,

- (i) the amount of any surplus or deficit remaining at the end of the preceding year,
- (ii) the revenue estimated to be derived from the legislative grants specified in subsection 3 of section 139 and from all other sources,
- (iii) the amounts of principal and interest payable during the current year in respect of all outstanding debentures issued for school purposes,
- (iv) expenditures to be made out of current funds for permanent improvements the cost of which would otherwise be raised by the issue of debentures under sections 144 and 145, such expenditures not to exceed,

A. a sum calculated at one-half mill in the dollar upon the total assessment in the Metropolitan Area for secondary school purposes and one-half mill in the dollar upon the total assessment in the Metropolitan Area for public school purposes according to the last revised assessment rolls, and

B. for any particular permanent improvement, that portion of the cost thereof which, if the improvement had been financed by the issue of debentures under section 145, would have been met by levies against all the area municipalities. 1953, c. 73, s. 126 (1); 1957, c. 81, s. 18; 1959, c. 65, s. 7.

(2) A board of education shall not admit to a secondary school operated by it any pupil who is not a resident pupil without prior approval of the School Board. 1958, c. 68, s. 8.

Admission  
of non-  
resident  
pupils

**137.**—(1) Sections 38, 39 and 41 of *The Schools Administration Act* apply *mutatis mutandis* to the School Board.

Application  
of R.S.O.  
1960, c. 361,  
ss. 38, 39, 41

## Pensions

(2) Where the School Board employs or has employed a person theretofore employed by a board of education in the Metropolitan Area, the employee shall be deemed to remain an employee of the board of education for the purpose of any pension plan of such board of education, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the board of education, until the School Board has provided a pension plan for its employees and such employee has elected, in writing, to participate therein.

## Idem

(3) Until such selection, the School Board shall deduct by instalments from the remuneration of the employee the amount that such employee is required to pay in accordance with the provisions of the plan of the board of education, and the School Board shall pay to the board of education in instalments,

(a) the amounts so deducted;

(b) the future service contributions payable under the plan by the board of education.

## Sick leave credits

(4) Where the School Board employs or has employed a person theretofore employed by a board of education in the Metropolitan Area, the employee shall be deemed to remain an employee of the board of education for the purposes of any sick leave credit plan of such board of education until the School Board has established a sick leave credit plan for its employees, whereupon the School Board shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the board of education. 1955, c. 50, s. 11.

## Payment by Metropolitan Corporation

**138.** The Metropolitan Corporation shall pay to the School Board, in monthly instalments, the moneys required by the School Board as shown in its estimates submitted under clause *j* of subsection 1 of section 136, except the moneys required for the purposes of subclauses iii and iv of the said clause. 1953, c. 73, s. 127; 1959, c. 65, s. 8.

## Legislative grants

**139.**—(1) The special and general legislative grants payable to school boards shall be calculated as provided in the regulations. 1958, c. 68, s. 9, *part*.

## General legislative grants payable to boards of education

(2) The general legislative grants in respect of an expenditure by a board of education from its current funds approved by the Minister for,

(a) night schools;

(b) text books and reference books;

(c) milk for consumption by pupils;



- (d) membership fees paid to a trustee organization;
- (e) the construction of junior kindergartens not approved by the school board; and
- (f) school buses and transportation of pupils,

shall be paid to the board of education that made the expenditure for these goods and services. 1960, c. 72, s. 5 (1).

(3) The general legislative grants, except those referred to in subsection 2, shall be paid to the School Board. 1958, c. 68, s. 9, *part*. General legislative grants payable to School Board

(4) Where a board of education transfers property from the use for which it was designated and an adjustment is made in the approved cost for legislative grant purposes, the school board shall reduce or increase the maintenance assistance payment to the board of education by the amount of the reduction or increase in the legislative grant payable as a result of such transfer. Change in maintenance assistance payments on change in use of property

(5) The school board shall reduce the maintenance assistance payment for each board of education by the amount that is deducted from the legislative grants for payment to the Teachers' Superannuation Fund on behalf of the teachers employed by that board of education. 1960, c. 72, s. 5 (2). Deduction from maintenance assistance payments

**140.**—(1) Each board of education in the Metropolitan Area when preparing and submitting to the municipal council or councils its annual estimates as provided by law shall, in addition to all other requirements, include and make due allowance for the maintenance assistance payments and other revenues to be received during the year from the School Board, and such estimates may, notwithstanding any other Act, include an additional sum to be obtained from current revenue for permanent improvements to be made during the year. Estimates of boards of education

(2) Each board of education in the Metropolitan Area continues to have all the powers, duties and responsibilities conferred and imposed upon it by any general or special Act and regulations made thereunder that are not inconsistent with the provisions of this Act, and shall comply with all the requirements of this Act that apply to them. 1953, c. 73, s. 129. Powers and duties

**141.**—(1) On and after the 1st day of January, 1954, the Metropolitan Corporation shall pay to each area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality for public or secondary school purposes. School debenture liability

Default

(2) If the Metropolitan Corporation fails to make any payment as required by subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling of doubts

(3) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for public or secondary school purposes, the Municipal Board, upon application, may determine the matter, and its decision is final. 1953, c. 73, s. 130.

Discontinuance and sale of schools, etc.

**142.**—(1) Notwithstanding any of the provisions of this or any other Act, no board of education in the Metropolitan Area,

(a) shall discontinue the operation and maintenance of any school under its jurisdiction without the approval of the School Board;

(b) shall sell, lease or otherwise dispose of any school site, school building, school equipment or other item of school property, the cost of which was financed in whole or in part by the issue of debentures, without the approval of the School Board.

Application of proceeds

(2) Where a board of education sells, leases or otherwise disposes of any school property in accordance with clause *b* of subsection 1, the board of education shall pay to the School Board that share of the proceeds of such disposal that bears the same ratio to the total proceeds as the portion of the total cost of such property borne by the Metropolitan Corporation bears to the total cost of such property.

Settling of doubts

(3) In the event of any doubt as to the apportionment of the proceeds in accordance with subsection 2, the Municipal Board, upon application, may determine the matter, and its decision is final. 1953, c. 73, s. 131.

Transfer of public school property to secondary school purposes and vice versa

**143.** A board of education with the approval of the School Board may transfer property that was acquired for public school purposes to secondary school purposes or vice versa and, where property is so transferred, the transfer shall be made effective on the 1st day of January in any year and the principal and interest on any debentures issued with respect to such property to be raised in that year and subsequent years by levy shall be raised by levy on the whole rateable property rateable for the purposes to which such property is transferred. 1958, c. 68, s. 10.

Application for debentures for school purposes

**144.**—(1) Where a board of education in the Metropolitan Area desires that the sums required for permanent improve-

ments as defined in paragraph 25 of subsection 2 of section 1 of *The Schools Administration Act* shall be raised by the issue and sale of debentures, it may apply to the council or councils of the area municipality or municipalities in which it has jurisdiction and it shall at the same time deliver a copy of such application to the secretary of the School Board and the clerk of the Metropolitan Corporation. 1953, c. 73, s. 132 (1); 1957, c. 81, s. 19. R.S.O. 1960, c. 361

(2) The application shall state the purpose of the proposed borrowing, the nature and estimated cost of the proposed work or project, the estimated amount of general legislative grants payable in respect thereof and the proposed term of years of the debentures to be issued. Idem

(3) Each council applied to shall, at its first meeting after receiving the application or as soon thereafter as possible, consider and approve or disapprove the application and if a vote in any council results in a tie the application shall be deemed to be disapproved by that council. Disposition of application by area council

(4) The clerk of each such area municipality shall forward a certified copy of the resolution of the council approving or disapproving the application to the secretary of the applicant board of education, the secretary of the School Board and the clerk of the Metropolitan Corporation. Duty of municipal clerk

(5) The School Board, at its first meeting after receiving its copy of the application or as soon thereafter as possible, shall consider and approve or disapprove the application, and the secretary of the School Board shall forward a certified copy of its resolution in respect of the application to the secretary of the applicant board of education, the clerk of each area municipality concerned and the clerk of the Metropolitan Corporation. 1953, c. 73, s. 132 (2-5). Disposition of application by School Board

(6) A board of education in the Metropolitan Area may rehabilitate or renovate any school buildings under its jurisdiction and the same shall be deemed permanent improvements for the purposes of this Act. 1958, c. 68, s. 11. Rehabilitation of school buildings

**145.**—(1) The Metropolitan Council, after the application referred to in section 144 has been dealt with by the council of each area municipality concerned and by the School Board, shall consider and approve or disapprove the application, and the clerk of the Metropolitan Corporation shall thereupon give notice of the decision of the Metropolitan Council to the secretary of the applicant board of education, the clerk of each area municipality concerned and the secretary of the School Board. Disposition of application by Metropolitan Council



Application  
to Municipal  
Board

R.S.O. 1960,  
c. 274

(2) If the Metropolitan Council approves the application, it shall apply to the Municipal Board for its approval under section 64 of *The Ontario Municipal Board Act* and, if the Municipal Board approves, the Metropolitan Council shall pass a by-law authorizing the borrowing of money by the issue and sale of debentures of the Metropolitan Corporation for the purposes stated in the application.

Appeal

(3) Where the Metropolitan Council disapproves the application, the applicant board of education or the council of any area municipality concerned or the School Board may appeal to the Municipal Board for an order requiring the Metropolitan Council to pass a by-law for borrowing money by the issue and sale of debentures for the purpose or purposes stated in the application.

Public  
hearing

(4) The Municipal Board shall conduct a public hearing of every such appeal upon such notice as it may deem proper, and may dismiss the appeal or may by order require the Metropolitan Council to pass the by-law mentioned in subsection 3, and the decision of the Municipal Board on such appeal is final. 1953, c. 73, s. 133 (1-4).

Levy

(5) Every order of the Municipal Board granting approval of an application under subsection 2 or requiring the issuing of debentures under subsection 4 shall direct,

- (a) that the amount of the debt to be created for the portion of the proposed expenditure approved by the Minister for legislative grant purposes, if any, shall be repaid by levies against all the area municipalities;
- (b) that in addition to such amount, if any, there shall be repaid by levies against all the area municipalities such amount of the debt to be created as may be determined by the School Board from time to time in accordance with a formula prepared by the School Board and approved by the Metropolitan Council for uniform application in the Metropolitan Area; and
- (c) that the balance of such debt, if any, shall be repaid by levies only against the area municipality or area municipalities in which the applicant board of education has jurisdiction. 1953, c. 73, s. 133 (5); 1958, c. 68, s. 12.

Certain  
school boards  
and districts  
exempted

R.S.O. 1960,  
co. 330, 362

**146.**—(1) Nothing in this Act affects any public school board or public school section within the Metropolitan Area heretofore or hereafter established by the Minister under section 12 of *The Public Schools Act* or any high school board or high school district within the Metropolitan Area hereafter

established by the Minister under subsection 5 of section 12 of *The Secondary Schools and Boards of Education Act*. 1953, c. 73, s. 134 (1); 1957, c. 81, s. 20.

(2) The School Board shall be deemed to be a board within the meaning of *The Teachers' Superannuation Act*. 1953, c. 73, s. 134 (2). Application of R.S.O. 1960, c. 392

**147.**—(1) The council of any area municipality may grant aid to the board of education for the area municipality to pay in whole or in part for the construction by the board of indoor or outdoor swimming pools on the property of the board. Swimming pools on school property

(2) An area municipality and the board of education thereof may enter into agreements with respect to the construction, control, operation, maintenance and repair of such swimming pools and with respect to the operation and use of such swimming pools except during school hours by the area municipality. Agreements

(3) The council of an area municipality may charge fees for the use of or admission to such swimming pools while the operation and use of the pools is under the control of the area municipality. Fees

(4) The Metropolitan Corporation may issue debentures for the purposes of any undertaking under this section. 1956, c. 53, s. 11. Debentures

**148.** The Metropolitan Council may make grants in aid of capital or current expenditures to any public library board in an area municipality which in the opinion of the Metropolitan Council provides library services to residents of any other area municipality. 1958, c. 68, s. 13. Grants to public library boards

## PART VIII

### SEPARATION FROM COUNTY OF YORK

**149.**—(1) The following area municipalities for municipal purposes are separated from the County of York: Separation from County of York

The Township of East York  
 The Township of Etobicoke  
 The Village of Forest Hill  
 The Town of Leaside  
 The Village of Long Branch  
 The Town of Mimico  
 The Town of New Toronto  
 The Township of North York  
 The Township of Scarborough

The Village of Swansea  
 The Town of Weston  
 The Township of York.

1953, c. 73, s. 136, *amended*.

Certain towns not to be deemed separated towns for the purposes of R.S.O. 1960, c. 171

(2) Notwithstanding subsection 1, the Town of Leaside, the Town of Mimico, the Town of New Toronto and the Town of Weston shall be deemed to be towns and not separated towns for the purposes of *The Highway Improvement Act*. 1955, c. 50, s. 12; 1957, c. 81, s. 21.

Composition of councils

**150.** Subject to section 151, the council of each area municipality mentioned in section 149 shall continue to be composed as if this Act had not been passed. 1953, c. 73, s. 137.

By-laws re composition of councils

**151.**—(1) The council of any town mentioned in section 149 may pass by-laws providing that the council shall be composed of a mayor to be elected by general vote, and not more than eight councillors, and the by-law may provide that the councillors shall be elected by general vote or, if the town is divided into wards, by wards or partly by wards and partly by general vote.

Idem

(2) The council of any village or township mentioned in section 149 may pass by-laws providing that the council shall be composed of a reeve to be elected by general vote, and not more than eight councillors, and the by-law may provide that the councillors shall be elected by general vote or, if the village or township is divided into wards, by wards or partly by wards and partly by general vote. 1953, c. 73, s. 138 (1, 2).

Repeal

(3) A by-law under this section shall not be repealed until two biennial elections have been held under it. 1953, c. 73, s. 138 (3); 1956, c. 53, s. 12 (1).

Time for passing; assent of electors

(4) A by-law under this section, and a by-law repealing any such by-law, shall be passed not later in the year than the 1st day of November and shall not be passed unless it has received the assent of the municipal electors. 1953, c. 73, s. 138 (4).

Effective date

(5) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the biennial election next after its passing. 1953, c. 73, s. 138 (5); 1956, c. 53, s. 12 (2).

## PART IX

### HEALTH AND WELFARE SERVICES

Liability for hospitalization of indigents R.S.O. 1960, c. 322

**152.**—(1) The Metropolitan Corporation shall be deemed to be a city for all the purposes of the provisions of *The Public Hospitals Act* respecting hospitalization and burial of indigent



persons and their dependants, and no area municipality has any liability under such provisions. 1953, c. 73, s. 141 (1); 1957, c. 81, s. 22 (1).

(2) Where the superintendent of a hospital notifies the clerk of the Metropolitan Corporation in accordance with sub-section 1 or 2 of section 21 of *The Public Hospitals Act*, he shall at the same time and in the same manner notify the clerk of the area municipality in which the indigent person is or is represented to be a resident. 1953, c. 73, s. 141 (2); 1957, c. 81, s. 22 (2). Notice to area municipality R.S.O. 1960, c. 322

(3) The clerk of an area municipality shall, at the request of the clerk of the Metropolitan Corporation, furnish forthwith such particulars as may be ascertainable in respect of the residence or indigence of any person whose case has been brought to the attention of the clerk of the Metropolitan Corporation under section 21 of *The Public Hospitals Act*. 1953, c. 73, s. 141 (3); 1957, c. 81, s. 22 (3). Particulars to be sent to Metropolitan clerk

(4) The clerk of an area municipality, within ten days of receiving a notice sent to him under subsection 3, shall send by registered letter, or deliver, the particulars to the clerk of the Metropolitan Corporation. Idem

(5) Upon the failure of the clerk of an area municipality to comply with subsections 3 and 4, the area municipality is liable to the Metropolitan Corporation for the charges for treatment of the patient in respect of whom the information is requested. 1953, c. 73, s. 141 (4, 5). Liability of area municipality

**153.** The Metropolitan Corporation shall repay to each area municipality any expenses incurred after the 31st day of December, 1955, by the area municipality for the interment of dead bodies required to be interred by the area municipality under *The Anatomy Act*. 1956, c. 53, s. 13, *part*. Liability for burials under R.S.O. 1960, c. 14

**154.** The Metropolitan Corporation is liable for all costs and expenses under section 72 of *The Mental Hospitals Act* and subsections 2 and 3 thereof apply *mutatis mutandis* to the Metropolitan Corporation and no area municipality is liable for such costs and expenses. 1958, c. 68, s. 14. Metropolitan Corporation liability under R.S.O. 1960, c. 236

**155.**—(1) The Corporation of the County of York is not liable, and the Metropolitan Corporation is liable, for the hospitalization or burial, after the 31st day of December, 1953, of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, and in respect of whom the County was liable because the indigent person was a resident of an area municipality. Existing liabilities transferred

Idem

(2) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, for the hospitalization or burial, after the 31st day of December, 1953, of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, and in respect of whom the City was liable because the indigent person was a resident of the City.

Proviso

(3) Nothing in subsection 1 or 2 relieves the County or the City from any liability in respect of hospitalization provided or burials before the 1st day of January, 1954. 1953, c. 73, s. 142.

Special provisions

(4) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, after the 31st day of December, 1953, for the hospitalization and burial of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, or who is admitted to hospital after such date and in respect of whom the City is or would be liable under the provisions of an agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel which agreement was validated and confirmed by *The City of Toronto Act, 1947*, and nothing in this subsection relieves the City from any liability in respect of hospitalization provided or burials before the 1st day of January, 1954. 1955, c. 50, s. 13.

1947, c. 142

Aid to hospitals

**156.** The Metropolitan Council may pass by-laws for granting aid for the erection, establishment, maintenance or equipment of public hospitals, including municipal hospitals, public sanatoria or municipal isolation hospitals in the Metropolitan Area and may issue debentures therefor. 1953, c. 73, s. 143.

Post-sanatorium care

**157.—**(1) The Metropolitan Corporation shall repay to the local board of health of each area municipality the expenses necessarily incurred by the local board for post-sanatorium care furnished after the 31st day of December, 1953, in discharge of its liability under subsection 2 of section 37 of *The Sanatoria for Consumptives Act*.

R.S.O. 1960, c. 359

Repayment by Metropolitan Corporation

(2) Where an area municipality repays to another local municipality expenses incurred by that other local municipality for post-sanatorium care furnished after the 31st day of December, 1953, under subsection 5 of section 37 of *The Sanatoria for Consumptives Act*, the Metropolitan Corporation shall repay such expenses to the area municipality.



(3) The Metropolitan Corporation shall repay to each area municipality any expenses incurred by the area municipality for burials after the 31st day of December, 1953, under section 38 of *The Sanatoria for Consumptives Act*, subject to the limitations set out in the said section 38. Burial of indigents dying in sanatorium R.S.O. 1960 c. 359

(4) Payment under subsection 1 to 3 shall be made quarterly by the Metropolitan Corporation upon receipt from the area municipality of detailed accounts in respect of the quarter, together with such information as the Metropolitan Council may require. Time for payment

(5) Where the Metropolitan Corporation has repaid to an area municipality the expenses of the burial of a deceased patient under subsection 3, the Metropolitan Corporation, in lieu of the area municipality, has the rights of recourse provided for in sections 40 and 41 of *The Sanatoria for Consumptives Act*. 1953, c. 73, s. 144. Rights of recourse

**158.**—(1) Subject to *The Public Hospitals Act*, the Metropolitan Corporation may establish, erect, equip, maintain and operate a public hospital and shall be deemed to be a city for the purposes of establishing, erecting and maintaining an isolation hospital under *The Public Health Act*. 1956, c. 53, s. 14, *part*; 1957, c. 81, s. 23. Public and isolation hospitals R.S.O. 1960, cc. 322, 321

(2) For such purposes, the Riverdale Isolation Hospital established, erected and maintained by The Corporation of the City of Toronto under *The Public Health Act* and the nurses' residence used in connection therewith and all real and personal property used for the purposes of such hospital and nurses' residence are vested in the Metropolitan Corporation and no compensation shall be paid to the City in respect thereof. 1956, c. 53, s. 14, *part*. Transfer of Riverdale Isolation Hospital

**159.**—(1) The Metropolitan Corporation shall be deemed to be a city for the purposes of *The Homes for the Aged Act*, and no area municipality has any liability as to the establishment, erection and maintenance of a home for the aged under that Act. 1953, c. 73, s. 145 (1); 1957, c. 81, s. 24 (1). Liability respecting home for aged R.S.O. 1960, o. 174

(2) Section 13 of *The Homes for the Aged Act* applies in respect of applicants for admission to a home for the aged of the Metropolitan Corporation except that, Admission to home for aged

- (a) the authorization in the prescribed form referred to in clause *e* of that section shall be signed by the chairman or by such other member of the Metropolitan Council as is designated by resolution of the Metropolitan Council;



- (b) the statement in the prescribed form referred to in clause *h* of that section shall be signed by the welfare officer of the Metropolitan Corporation or the welfare officer of the area municipality in which the applicant resides at the time of his application. 1957, c. 81, s. 24 (2).

Liability  
respecting  
indigent  
persons  
awaiting  
admittance  
to home  
for the aged  
R.S.O. 1960,  
c. 174

**160.** The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized under clause *e* of section 13 of *The Homes for the Aged Act*. 1957, c. 81, s. 25.

Location  
of home  
for aged

**161.** A home for the aged of the Metropolitan Corporation may be established, erected and maintained either within or outside the Metropolitan Area. 1953, c. 73, s. 146.

Toronto  
home for  
aged vested  
in Metro-  
politan  
Corporation  
1955, c. 30

**162.**—(1) The home for the aged established, erected or maintained under *The Homes for the Aged Act*, 1955 by The Corporation of the City of Toronto, and all real and personal property used for the purposes of such home, is vested in the Metropolitan Corporation and, subject to subsection 2, no compensation or damages shall be payable to the City in respect thereof. 1953, c. 73, s. 147 (1); 1957, c. 81, s. 26.

Existing  
debenture  
liability

(2) The Metropolitan Corporation shall pay to The Corporation of the City of Toronto before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the City for the purposes of such home for the aged.

Default

(3) If the Metropolitan Corporation fails to make any payment as required by subsection 2, the City may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling  
of doubts

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for the purposes of such home for the aged, the Municipal Board, upon application, may determine the matter and its decision is final. 1953, c. 73, s. 147 (2-4).

Lambert  
Lodge

(5) If the Minister of Public Welfare certifies that Lambert Lodge in the City of Toronto is no longer required by the Metropolitan Corporation for use as a home for the aged, the Metropolitan Corporation shall thereupon transfer that portion of the real property known as Lambert Lodge that was used for the purposes of a home for the aged and was

vested in the Metropolitan Corporation by subsection 1 to The Corporation of the City of Toronto, and no compensation or damages shall be payable to the Metropolitan Corporation in respect thereof. 1955, c. 50, s. 14.

**163.**—(1) The Metropolitan Corporation shall pay to <sup>Residents of County home for aged</sup> The Corporation of the County of York the cost of maintenance in the County home for the aged, after the 31st day of December, 1953, of every resident of that home who was admitted thereto due to residence in an area municipality.

(2) The amount payable by the Metropolitan Corporation <sup>Amount of maintenance payment</sup> under subsection 1 shall be such as may be agreed upon or, failing agreement, as may be determined by the Municipal Board. 1953, c. 73, s. 148.

**164.**—(1) The Metropolitan Corporation shall be deemed <sup>Liability for neglected children</sup> to be a city for the purposes of the provisions of *The Child Welfare Act* imposing liability on municipalities with respect <sup>R.S.O. 1960, c. 53</sup> to neglected children, and no area municipality has any liability under such provisions. 1953, c. 73, s. 149 (1); 1957, c. 81, s. 27 (1).

(2) Subsections 2 and 3 of section 35 and subsection 2 of section 38 of *The Child Welfare Act* do not apply to the Metropolitan Council or the Metropolitan Corporation, and each area municipality shall be deemed to be a city for the purposes of section 4 of that Act. 1953, c. 73, s. 49 (2); 1957, c. 81, s. 27 (2).

(3) The Metropolitan Council has the powers given to the <sup>By-laws in aid</sup> council of every municipality under section 26 of *The Child Welfare Act*. 1953, c. 73, s. 149 (3); 1957, c. 81, s. 27 (3).

(4) Nothing in this Act alters or affects the area in which <sup>Proviso</sup> a children's aid society approved under *The Child Welfare Act* has jurisdiction. 1953, c. 73, s. 149 (4); 1957, c. 81, s. 27 (4).

**165.**—(1) The Corporation of the County of York is not <sup>Existing liabilities transferred</sup> liable, and the Metropolitan Corporation is liable, for the maintenance of a neglected child in respect of whom an order for maintenance was in force against the County on the 31st day of December, 1953, where the order was made because the child belonged to the County due to residence in an area municipality.

(2) The Corporation of the City of Toronto is not liable, <sup>Idem</sup> and the Metropolitan Corporation is liable, for the maintenance of a neglected child in respect of whom an order for maintenance was in force against the City on the 31st day of December, 1953.

## Proviso

(3) Nothing in subsections 1 and 2 relieves the County or City from any liability in respect of maintenance provided before the 1st day of January, 1954. 1953, c. 73, s. 150.

## Special provisions

1947, c. 142

(4) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, after the 31st day of December, 1953, for the maintenance of children committed temporarily or permanently to the care and custody of a children's aid society in respect of which child an order for maintenance was in force on the 31st day of December, 1953, or is made after such date and in respect of which maintenance the City is or would be liable under the provisions of an agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel which agreement was validated and confirmed by *The City of Toronto Act, 1947*, and nothing in this subsection relieves the City from any liability in respect of maintenance provided before the 1st day of January, 1954. 1955, c. 50, s. 15.

## Liability under R.S.O. 1960, c. 140

**166.** The Metropolitan Corporation shall be deemed to be a municipality for the purposes of subsection 6 of section 9 of *The Female Refuges Act* and for the purposes of the regulations under that Act, and no area municipality has any liability under such subsection or regulations. 1953, c. 73, s. 151.

## Existing liabilities transferred

**167.**—(1) An area municipality is not liable, and the Metropolitan Corporation is liable, for the maintenance of any person who was in a female refuge on the 31st day of December, 1953, and in respect of whom the area municipality was liable because the person was a resident thereof.

## Proviso

(2) Nothing in subsection 1 relieves any area municipality from any liability in respect of maintenance provided before the 1st day of January, 1954. 1953, c. 73, s. 152.

## Liability under R.S.O. 1960, c. 404

**168.** The Metropolitan Corporation shall be deemed to be a city for the purposes of subsection 1 of section 13 and sections 14 to 18 and 22 of *The Training Schools Act*, and no area municipality has any liability under such provisions. 1953, c. 73, s. 153.

## Existing liabilities transferred

R.S.O. 1960, c. 404

**169.**—(1) The Corporation of the County of York is not liable, and the Metropolitan Corporation is liable, for payment under *The Training Schools Act* towards the maintenance and education of a child in respect of whom the County was liable on the 31st day of December, 1953, due to residence in an area municipality.



(2) The Corporation of the City of Toronto is not liable, <sup>Idem</sup> and the Metropolitan Corporation is liable, for payment under *The Training Schools Act* towards the maintenance and education of a child in respect of whom the City was liable on the 31st day of December, 1953, due to residence in the City.

(3) Nothing in subsections 1 and 2 relieves the County or <sup>Proviso</sup> the City from any liability in respect of maintenance and education provided before the 1st day of January, 1954. 1953, c. 73, s. 154.

(4) The Corporation of the City of Toronto is not liable, <sup>Special provisions</sup> and the Metropolitan Corporation is liable, after the 31st day of December, 1953, for payment under *The Training Schools Act* towards the maintenance and education of a child in respect of whom the City is or would be liable under the provisions of an agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel which agreement was validated and confirmed by *The City of Toronto* 1947, c. 142 *Act*, 1947, and nothing in this subsection relieves the City from any liability in respect of maintenance and education provided before the 1st day of January, 1954. 1955, c. 50, s. 16.

**170.** Every area municipality and every officer or employee <sup>Information</sup> thereof shall, at the request of the clerk of the Metropolitan Corporation, furnish forthwith to such clerk any information he may require for the purposes of *The Homes for the Aged* <sup>R.S.O. 1960, c. 174, 53, 140, 404</sup> *Act*, *The Child Welfare Act*, *The Female Refugees Act* and *The Training Schools Act*. 1953, c. 73, s. 155; 1957, c. 81, s. 28.

**171.** In the event of any doubt as to whether any liability <sup>Adjustments</sup> is transferred under section 155, 165, 167 or 169 or as to whether the Metropolitan Corporation is liable under subsection 1 of section 163 in respect of any particular resident of the County home for the aged, the matter may be settled by agreement between the municipalities concerned or, failing agreement, may be determined by the Municipal Board. 1953, c. 73, s. 156.

**172.** The Metropolitan Council may acquire the lands <sup>Acquisition of land for Association for Retarded Children</sup> and premises known as 186-194 Beverley Street in the City of Toronto for the use of the Metropolitan Toronto Association for Retarded Children and may lease such lands and premises to the Association for a nominal amount for such term and under such conditions as the Metropolitan Council may determine. 1956, c. 53, s. 16.

## PART X

## ADMINISTRATION OF JUSTICE, ETC.

Court house  
and jail

**173.**—(1) The Metropolitan Corporation shall provide and maintain a court house and a jail.

Sufficient  
for county

(2) The court house and jail shall be sufficient for the purposes of the County of York as well as for the purposes of the Metropolitan Area.

Maintenance  
of jail  
R.S.O. 1960,  
c. 195

(3) The jail shall be provided and maintained in accordance with *The Jails Act* and to the satisfaction of the Lieutenant Governor in Council. 1953, c. 73, s. 158.

Acquisition  
of land  
for court  
house

**174.** The Metropolitan Corporation may acquire land which may be exchanged for other land for the purpose of providing a site for the erection of a court house. 1956, c. 53, s. 17.

Erection,  
etc., of  
court house  
and jail

**175.**—(1) The Metropolitan Council may pass by-laws for erecting, enlarging or improving a court house or jail, and shall keep the same in repair and provide the food, fuel and other supplies necessary therefor.

County  
buildings

(2) The County of York may acquire land for, and may erect and maintain, either in the Metropolitan Area or elsewhere in the county, buildings for use as a county hall and for offices for the county officials.

Metropolitan  
jail

(3) The Metropolitan Corporation may erect and maintain its jail either within the Metropolitan Area, the County of York, or any county adjoining the County of York. 1953, c. 73, s. 159.

Use of  
court house  
and jail  
by county

**176.** The court house and the jail provided by the Metropolitan Corporation shall be the court house and jail of the County of York, and the jailer shall receive and safely keep, until duly discharged, all persons committed to the jail by any competent authority of the county. 1953, c. 73, s. 160; 1958, c. 68, s. 15.

Metropolitan  
Council to  
provide  
accommoda-  
tion, etc.

**177.** The Metropolitan Council has the care of its court house and of all offices, rooms and grounds connected therewith, whether the court house is a separate building or is connected with the jail, and the appointment of the caretakers thereof, and shall, from time to time, provide all necessary and proper accommodation, fuel, light, stationery and furniture for the provincial courts of justice, other than the division courts, and for the library of the law association

of the county, such last-mentioned accommodation to be provided in the court house, and proper offices, together with fuel, light, stationery and furniture and, when certified by the Attorney General to be necessary, with typewriters, for all officers connected with such provincial courts, including the Crown attorney for the City of Toronto and the County of York, and shall pay all other fees and moneys payable in connection with the administration of justice by the City of Toronto under the terms of the agreement referred to in section 172 of *The Municipality of Metropolitan Toronto Act*, 1953, c. 73 1953, c. 73 s. 161; 1955, c. 50, s. 17.

[NOTE. See subsection 4 of section 8 of *The Division Courts Act as to the Metropolitan Corporation liability for accommodation for division courts.*]

**178.** The care of the court house and jail of the Metro-By-laws  
politan Corporation shall be regulated by by-law of the  
Metropolitan Council. 1953, c. 73, s. 162.

**179.** Where the attendance of a prisoner confined in the jail is required at a hearing or proceeding, the Metropolitan Corporation is responsible for conveying the prisoner from the jail to the place of the hearing or proceeding and for his return, and the expense thereof shall be borne and paid in the same manner and in the same proportion as a charge or expense relating to the administration of justice under section 180. 1958, c. 68, s. 16. Responsi-  
bility for  
conveying  
prisoners

**180.—(1)** The County of York shall bear and pay its just share or proportion of all charges and expenses from time to time incurred in erecting, enlarging, improving, repairing or maintaining the court house and jail of the Metropolitan Corporation, and of their proper lighting, cleaning and heating; of drafting, selecting, enrolling and paying jurors; in providing the accommodation and other matters mentioned in section 177, and of all other charges relating to the administration of justice except such as the Metropolitan Corporation is entitled to be repaid by the Province. 1953, c. 73, s. 163 (1), *amended*. Liability of  
county to  
share costs  
of court  
house, etc.

**(2)** The use of the court house for the sittings of a division court of a division that comprises part of the county may be taken into account in determining the amount to be paid by the county for the maintenance of the court house. 1953, c. 73, s. 163 (2). Allowance  
for use of  
court house  
for division  
courts

**(3)** If the Metropolitan Corporation and the county are unable to agree as to the amount to be paid by the county, the amount shall be determined by the Municipal Board. 1953, c. 73, s. 163 (3); 1957, c. 81, s. 29. Arbitration



Insurable  
interests

**181.** The county and the Metropolitan Corporation have from time to time insurable interests in the court house and jail in the proportions of the aggregate amounts that they have respectively contributed to the costs, charges and expenses of erecting, enlarging, improving and repairing such buildings, and in the contents and furniture of the court house and jail in the proportions of the aggregate amounts that they have respectively contributed to the costs, charges and expenses of providing the contents and furniture. 1953, c. 73, s. 164.

Care of  
prisoners  
etc.

**182.—**(1) The county shall pay to the Metropolitan Corporation in respect of its use of the court house and jail and for the care and maintenance of prisoners such compensation as may be mutually agreed upon or determined by the Municipal Board. 1953, c. 73, s. 165 (1); 1957, c. 81, s. 30 (1).

Compensa-  
tion

(2) In determining the compensation to be paid for the care and maintenance of prisoners, the Municipal Board shall, so far as it deems just and reasonable, take into consideration the original cost of the site and erection of the jail and jail buildings and of repairs and insurance, so far as they have been borne by one or other of the two municipalities, and the cost of maintaining and supporting the prisoners, as well as the salaries of all officers and servants connected therewith. 1953, c. 73, s. 165 (2); 1957, c. 81, s. 30 (2).

Reconsidera-  
tion of  
compensa-  
tion

**183.** After five years from the time when the amount of the compensation is agreed upon or determined by the Municipal Board under sections 180 and 182 or after a direction by the Lieutenant Governor in Council under the authority of this section, the Lieutenant Governor in Council upon the application of the county or the Metropolitan Corporation may direct that the existing arrangement shall cease after a day to be named and that the compensation to be paid from that day shall be settled by agreement or determined by the Municipal Board. 1953, c. 73, s. 166; 1957, c. 81, s. 31.

Use of  
jail as  
lock-up

**184.** The jail may be used for the purposes of a lock-up house for any area municipality or any local municipality in the county, and if so used the area municipality or local municipality shall pay yearly to the treasurer of the Metropolitan Corporation a reasonable sum for such use and for the expenses incurred by such use, and in case of disagreement the amount to be paid to the Metropolitan Corporation shall be determined by the Municipal Board. 1953, c. 73, s. 167; 1957, c. 81, s. 32.

**185.** Sections 358 and 359 of *The Municipal Act* apply to the jail, the Metropolitan Corporation and the jailers and jail employees, and the Metropolitan Corporation shall be deemed to be a city for the purposes of those sections. 1953, c. 73, s. 168.

Custody of jails; employees  
R.S.O. 1960, c. 249

**186.** Sections 355 to 371 of *The Municipal Act* do not apply to the County of York or any area municipality. 1953, c. 73, s. 169.

R.S.O. 1960, c. 249  
ss. 355-371, not to apply

**187.**—(1) The jail maintained by The Corporation of the City of Toronto, and all real and personal property used for the purposes of such jail, are vested in the Metropolitan Corporation and, subject to subsection 2, no compensation or damages shall be payable to the City.

Toronto jail vested in Metropolitan Corporation

(2) On and after the 1st day of January, 1954, the Metropolitan Corporation shall pay to The Corporation of the City of Toronto before the due date all amounts of principal and interest becoming due on any outstanding debentures issued by the City in respect of such jail.

Metropolitan liability

(3) If the Metropolitan Corporation fails to make any payment as required by subsection 2, the City may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Default

(4) In the event of any doubt as to whether any debenture or portion thereof was issued in respect of the jail, the Municipal Board, upon application, may determine the matter and its decision is final. 1953, c. 73, s. 170.

Settling of doubts

**188.**—(1) Until the Metropolitan Corporation has provided, established or erected a court house and is ready to provide and pay for all matters mentioned in section 177, The Corporation of the City of Toronto shall in the first instance provide and pay for all such matters.

Accommodation, etc., to be provided by City of Toronto

(2) The Metropolitan Corporation shall repay to The Corporation of the City of Toronto, in such manner as may be agreed upon, the costs incurred by the City under subsection 1. 1953, c. 73, s. 171.

Compensation

**189.** The Metropolitan Corporation shall be deemed to be a city for the purposes of *The Juvenile and Family Courts Act*. 1953, c. 73, s. 173; 1957, c. 81, s. 33, amended.

Juvenile courts  
R.S.O. 1960, c. 201



Metropolitan  
Corporation  
deemed  
city under  
R.S.O. 1960,  
c. 69

**190.** The Metropolitan Corporation shall be deemed to be a city for the purposes of *The Coroners Act* and no area municipality is liable for the payment of any salaries, fees or expenses under such Act. 1957, c. 81, s. 34.

"Green-  
acres" home  
for the aged

**191.** The Corporation of the County of York is not liable, and the Metropolitan Corporation is liable, for the fees and allowances required to be paid by the county under section 38 of *The Coroners Act* with respect to deceased persons who were resident in the home for the aged established by the Metropolitan Corporation and known as Greenacres. 1958, c. 68, s. 17.

Registry  
division  
not affected

**192.—(1)** Nothing in this Act alters or affects the boundaries of any registry division.

City Regis-  
try Office  
vested in  
Metropolitan  
Corporation

**(2)** The building in which the Registry Office for the Registry Division of the City of Toronto is located and the lands on which such building is situated and all personal property used for the purposes of such registry office and the land titles office therein are vested in the Metropolitan Corporation and the Metropolitan Corporation shall pay to the City of Toronto such compensation therefor as may be agreed upon and failing agreement as may be determined by the Municipal Board.

Compensa-  
tion

**(3)** The surplus fees in respect of the Registry Office for the Registry Division of the City of Toronto and of the Land Titles Office in the City of Toronto to which Metropolitan Corporation is entitled, after payment of the cost of any alterations or additions thereto, shall be paid by the Metropolitan Corporation to the City of Toronto in payment of the compensation agreed upon or determined under subsection 2 until such compensation is fully paid.

County  
Registry  
Office vested  
in  
Metropolitan  
Corporation

**(4)** The building in which the Registry Office for the Registry Division of the East and West Riding of the County of York and the lands on which such building is situated and all personal property used for the purposes of such registry office are vested in the Metropolitan Corporation and the Metropolitan Corporation shall pay such compensation therefor to the County of York and the area municipalities except the City of Toronto as may be agreed upon and failing agreement as may be determined by the Municipal Board.

How com-  
pensation  
to be shared

**(5)** The total compensation under subsection 4 shall be determined on the basis of values as of the 1st day of January, 1955, and the County of York shall be entitled to 15 per cent of such total compensation and the area municipalities shall be entitled to the remainder in such proportions as may be



agreed upon and failing agreement as may be determined by the Municipal Board.

(6) When the boundaries of the Registry Division of the East and West Riding of the County of York are changed so that no land within a municipality forming part of the County of York for municipal purposes is within such Registry Division, the Metropolitan Corporation shall pay to the County of York the amount of compensation to which the County is entitled under subsection 5.

Compensation to County of York

(7) The surplus fees of the Registry Office for the Registry Division of the East and West Riding of the County of York to which the Metropolitan Corporation is entitled, after payment of the cost of any alterations or additions thereto, shall be paid by the Metropolitan Corporation to and distributed among the area municipalities except the City of Toronto in payment of the compensation agreed upon or determined under subsection 5 in the same proportions as are determined with respect to the compensation until such compensation is fully paid.

Compensation to area municipalities

(8) No interest shall be payable in respect of any compensation payable by the Metropolitan Corporation under this section.

Interest

(9) For the purposes of *The Registry Act*, the Metropolitan Corporation shall be deemed to be a city and shall provide registry office accommodation and all other matters under *The Registry Act* with respect to the said registry divisions and the registry offices thereof.

Responsibility of Metropolitan Corporation R.S.O. 1960, c. 348

(10) So long as any land within a municipality forming part of the County of York for municipal purposes is within the boundaries of the Registry Division of the East and West Riding of the County of York, the County of York shall bear and pay to the treasurer of the Metropolitan Corporation such equitable proportion of the expenses incurred under section 20 of *The Registry Act* and any other expenses with respect to the registry office for such registry division, as the Inspector of Legal Offices directs.

Liability of County

(11) Subject to section 5 of *The Land Titles Act*,

Surplus fees of registry offices

(a) the Metropolitan Corporation is entitled to the surplus fees in respect of the Registry Office for the Registry Division of the City of Toronto; and

R.S.O. 1960, c. 204

(b) so long as any land within a municipality forming part of the County of York for municipal purposes is within the boundaries of the Registry Division of the East and West Riding of the County of York,

the Metropolitan Corporation and the County of York are entitled to the surplus fees in respect of the Registry Office for the Registry Division of the East and West Riding of the County of York in the manner provided in *The Registry Act* and thereafter the Metropolitan Corporation is entitled to such surplus fees.

Land titles

(12) For the purposes of *The Land Titles Act*, the Metropolitan Corporation shall be deemed to be a city and the responsibility of the City of Toronto under that Act shall hereafter be the responsibility of the Metropolitan Corporation which shall share with the County of York the expenses under that Act in the manner provided by subsection 3 of section 3 of that Act.

Surplus  
fees of  
land titles  
office  
R.S.O. 1960,  
c. 204

(13) The Metropolitan Corporation and the County of York are entitled to the surplus fees in respect of the Land Titles Office in the City of Toronto in the manner provided in *The Land Titles Act*.

Use of  
building  
by City  
of Toronto

(14) Where any portion of any building that is vested by this section in the Metropolitan Corporation is being used by the City of Toronto for purposes other than a registry or land titles office on the 1st day of January, 1954, the City of Toronto may continue to use any such portion on such terms and at such rental as may be agreed upon and failing agreement as may be determined by the Municipal Board and when any such portion is required by the Metropolitan Corporation it shall give to the City of Toronto at least six months notice to vacate.

When land  
required  
for civic  
square

(15) When the building and lands vested by subsection 2 in the Metropolitan Corporation are required by the City of Toronto for the development of a civic square, the Metropolitan Corporation shall sell and convey such building and lands to the City of Toronto within two years of being notified by the City that the building and lands are so required at a price equal to the amount of compensation therefor determined under subsection 2. 1955, c. 50, s. 18 (1).

## PART XI

### METROPOLITAN POLICE

Interpre-  
tation

**193.** In this Part, "Metropolitan Board" means Metropolitan Board of Commissioners of Police for the Metropolitan Corporation. 1956, c. 53, s. 18, *part*.

Metropolitan  
Toronto  
deemed city  
for R.S.O.  
1960, c. 298

**194.**—(1) The Metropolitan Corporation shall be deemed to be a city for the purposes of *The Police Act*.

(2) *The Police Act* does not apply to any area municipality. 1956, c. 53, s. 18, *part*. R.S.O. 1960,  
c. 298  
not to apply  
to area  
municipalities

(3) Notwithstanding subsection 2, any area municipality making payments under subsection 14 of section 202 may be paid a grant under Part III of *The Police Act*. 1959, c. 65, s. 9. Grants  
to area  
municipalities

**195.** All boards of commissioners of police of area municipalities are dissolved. 1956, c. 53, s. 18, *part*. Boards of  
area municipal-  
ities  
dissolved

**196.**—(1) The Board of Commissioners of Police for the Metropolitan Corporation shall be known as Metropolitan Board of Commissioners of Police and shall be composed of, Composition  
of Metro-  
politan  
Board

- (a) the chairman of the Metropolitan Council;
- (b) one member of the Metropolitan Council appointed by the Metropolitan Council;
- (c) a judge of the county court of the County of York designated by the Lieutenant Governor in Council; and
- (d) two magistrates designated by the Lieutenant Governor in Council.

(2) The Metropolitan Board may pass by-laws under paragraph 3 of section 403 of *The Municipal Act*. 1956, c. 53, s. 18, *part*. Specific  
powers  
R.S.O. 1960,  
c. 249

**197.** The Metropolitan Corporation shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations under *The Police Act*, to the members of the Metropolitan Board. 1956, c. 53, s. 18, *part*. Remunera-  
tion  
R.S.O. 1960,  
c. 298

**198.** The Metropolitan Corporation shall provide all real and personal property necessary for the purposes of the Metropolitan Board. 1956, c. 53, s. 18, *part*. Accommo-  
dation and  
equipment

**199.** All regulations under *The Police Act* made by the boards of commissioners of police dissolved under section 195 that are in force immediately before the 1st day of January, 1957, shall continue in force and effect and apply to the members of the Metropolitan Police Force until repealed by the Metropolitan Board. 1956, c. 53, s. 18, *part*. Regulations  
of dissolved  
boards  
continue  
in force

**200.**—(1) Every person who is a member of a police force in an area municipality, including any chief constable, constable, police officer and assistant, on the 15th day of March, 1956, and is continuously so employed until immediately before the 1st day of January, 1957, becomes a member of the Metro- Members  
of area  
municipality  
police force  
transferred  
to Metro-  
politan  
Board



politan Police Force on the 1st day of January, 1957, and is subject to the government of the Metropolitan Board to the same extent as if appointed by the Metropolitan Board.

Application  
of pension  
provisions  
to civilian  
employees

(2) Subsections 3 to 7 of section 24 apply to every person who becomes a member of the Metropolitan Police Force, except a chief constable, constable or other police officer, to the same extent as if such person had been an employee of an area municipality or the board of commissioners of police thereof and thereafter became employed by the Metropolitan Corporation.

Enforcement  
of by-laws

(3) The Metropolitan Board and the members of the Metropolitan Police Force shall be charged with the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Metropolitan Corporation. 1956, c. 53, s. 18, *part.*

Assumption  
of  
buildings

**201.**—(1) The Metropolitan Council shall, before the 1st day of January, 1957, pass by-laws which shall be effective on the 1st day of January, 1957, assuming for the use of the Metropolitan Board any such land or building that the Metropolitan Board may require that is vested on the 15th day of February, 1956, in any area municipality or local board thereof, and at least 40 per cent of which is used on such date for the purposes of the police force of that area municipality, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation.

Sale by  
area  
municipi-  
palities  
limited

(2) No area municipality, before the 1st day of January, 1957, shall without the consent of the Metropolitan Board sell, lease or otherwise dispose of or encumber any land or building mentioned in subsection 1.

Extension  
of time

(3) Notwithstanding subsection 1, a by-law for assuming any land or building mentioned in subsection 1, with the approval of the Municipal Board, may be passed after the 1st day of January, 1957, and in that case the by-law shall become effective on the date provided therein.

Building  
not used  
exclusively  
for police  
force

(4) Where any part of a building mentioned in subsection 1 is used by the area municipality or a local board thereof for other than police purposes, the Metropolitan Council may,

- (a) where practicable assume only the part of the building and land appurtenant thereto used for the purposes of the police force of the area municipality; or
- (b) vest the building and land appurtenant thereto in the Metropolitan Corporation and enter into an agreement with the area municipality or local board

thereof for the use of a part of the building by the area municipality or local board on such terms and conditions as may be agreed upon.

(5) Where the Metropolitan Corporation assumes any property under subsection 1 or 3, Metropolitan Corporation liability

- (a) no compensation or damage shall be payable to the area municipality or local board except as provided in this subsection;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of any property vested in the Metropolitan Corporation;
- (c) the Metropolitan Corporation shall thereafter pay to the area municipality for the portion of any land or building vested in the Metropolitan Corporation under this section that is not used for police purposes on the 15th day of February, 1956, such amount as may be agreed upon and failing agreement the Municipal Board, upon application, may determine the amount, and its decision is final, provided such amount shall not be greater than the capital expenditure for such portion of such land or building less the amount of any outstanding debentures in respect of such portion.

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default

(7) Where a building vested in an area municipality or local board is used partly by the police force of the area municipality and is not vested in the Metropolitan Corporation under this section, the area municipality at the request of the Metropolitan Board shall provide, at such rental as may be agreed upon, at least as much accommodation in such building for the use of the Metropolitan Board as was being provided by the area municipality for its police force on the 15th day of February, 1956. Accommodation

(8) At the request of the Metropolitan Board, each area municipality, for the use of the Metropolitan Board, Office supplies, etc.

- (a) shall transfer to the Metropolitan Corporation without compensation all office supplies and sta-

tionery in the possession of the area municipality on the 31st day of December, 1956, that was provided for the exclusive use of the police force of the area municipality;

(b) shall transfer to the Metropolitan Corporation without compensation all personal property with the exception of office supplies and stationery in the possession of the area municipality on the 15th day of February, 1956, or thereafter that was provided for the exclusive use of the police force of the area municipality;

(c) shall make available to the Metropolitan Corporation all personal property the use of which was shared by the police and any department or departments of the area municipality on the 15th day of February, 1956, on the same terms and to the same extent as the police department used the property before the 15th day of February, 1956.

Disposal  
of personal  
property

(9) No area municipality or board of commissioners of police, without the consent of the Metropolitan Board, shall dispose of any personal property referred to in subsection 8 owned by the area municipality on the 15th day of February, 1956, or thereafter.

Signal  
system  
transferred

(10) All signal and communication systems owned by any area municipality and used for the purposes of the police force of the area municipality on the 15th day of February, 1956, or thereafter are vested in the Metropolitan Corporation for the use of the Metropolitan Board on the 1st day of January, 1957, and no compensation shall be payable to the area municipality therefor and the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of any such signal or communication system.

Settling  
of doubts

(11) In the event of any doubt as to whether,

(a) any outstanding debenture or portion thereof was issued in respect of any property assumed; or

(b) any land or building is used at least 40 per cent for the purposes of a police force,

the Municipal Board, upon application, may determine the matter and its decision is final. 1956, c. 53, s. 18, *part*.

Pensions

**202.**—(1) The Metropolitan Council, on the recommendation of the Metropolitan Board, shall provide such pension plan for the chief constable, constables and other police officers



who are members of the Metropolitan Police Force, as the Minister may approve, and may provide for the incorporation of the plan of any area municipality and the Toronto Police Benefit Fund with the plan established under this section, and may provide for the transfer of the interests of such members who were in the service of the police force of an area municipality from the Toronto Police Benefit Fund and from the pension plan of any area municipality to the pension plan established under this section. 1956, c. 53, s. 18, *part*; 1960, c. 72, s. 6 (1).

(2) The benefits provided in the pension plan established under this section for the services of any member of the Metropolitan Police Force performed on and after the 1st day of January, 1957, shall be on a basis not less favourable with respect to such services than the benefits provided in By-law No. 13273 of The Corporation of the City of Toronto, as amended, respecting the Toronto Police Benefit Fund. 1956, c. 53, s. 18, *part*.

Provisions  
not less  
favourable  
than Toronto  
Police  
Benefit  
Fund

(3) The benefits provided in the pension plan established under this section,

Provisions  
for services  
with police  
force of area  
municipality

(a) with respect to the services performed before the 1st day of January, 1957, of members of the Toronto Police Benefit Fund shall be not less favourable than the benefits provided in the said By-law No. 13273, provided such benefits shall be limited to those purchasable with the assets transferred from the Toronto Police Benefit Fund and the payments to be made by the City of Toronto as provided in subsection 14 and any additional payments agreed to be made by the City of Toronto to the pension plan established under this section; and

(b) with respect to the services performed before the 1st day of January, 1957, by the chief constable, constables and other police officers of any other area municipality shall be not less favourable than the benefits provided for the chief constable, constables and other police officers under the pension plan of such other area municipality, provided such benefits shall be limited to those purchasable with the assets transferred from the pension plan of the area municipality, the payments to be made by the area municipality as provided in subsection 14 and any additional payments agreed to be made by the area municipality to the pension plan established under this section. 1956, c. 53, s. 18, *part*; 1958, c. 68, s. 18.

(4) Every chief constable, constable and other police officer of the police force of an area municipality who has become a

Accrued  
benefits  
under area  
municipality  
pension plan

member of the Metropolitan Police Force pursuant to subsection 1 of section 200, or his beneficiaries, is entitled on termination of his services with the Metropolitan Police Force to all benefits accrued up to the 31st day of December, 1956, under the pension plan of the area municipality, and his employment by and service with the Metropolitan Police Force shall be deemed to be employment by and service with the police force of the area municipality for the purpose of determining eligibility for any such accrued benefits.

Area  
municipality  
liability

(5) An area municipality is liable to pay benefits accrued up to the 31st day of December, 1956, under subsection 4 only to the extent that such benefits exceed the benefits provided for services before the 1st day of January, 1957, in the pension plan established under this section.

Provision  
of benefits  
for past  
services

(6) Subject to the approval of the Minister, the Metropolitan Council, on the recommendation of the Metropolitan Board, may by by-law provide benefits under the pension plan established under this section with respect to services performed prior to the 1st day of January, 1957, by the chief constables, constables and other police officers of the police forces of the area municipalities who have become members of the Metropolitan Police Force under subsection 1 of section 200 on a basis not less favourable than the basis required by subsection 2 for services after that date, and in such event the Metropolitan Council, with the like approval, may, for such purpose, determine,

- (a) the extent to which the provisions of subsections 3 and 14 shall continue to apply;
- (b) the payments to be made to such pension plan by each area municipality; and
- (c) the assets to be assigned or transferred under subsection 12.

Idem

(7) The benefits authorized by subsection 6 may be provided for such chief constables, constables and other police officers whose services with the Metropolitan Police Force were terminated by retirement with immediate pension benefits or by death after the 1st day of January, 1957, and before the date a by-law passed under subsection 6 becomes effective.

Payments  
of area  
municipalities  
on deferred  
basis

(8) Any payments required to be made by an area municipality under subsection 6 other than assets transferred or assigned may, with the consent of the Metropolitan Council, be on a deferred basis and raised in a subsequent year or years and any such payments shall be deemed to be current expenditures.



(9) Any additional payments required to be made by the Metropolitan Corporation to provide the benefits authorized by subsection 6 may be on a deferred basis and raised in a subsequent year or years and shall be deemed to be current expenditures. 1960, c. 72, s. 6 (2). Additional payments by Metropolitan Corporation

(10) Every chief constable, constable and other police officer of an area municipality who becomes a member of the Metropolitan Police Force under section 200 thereupon becomes a member of the pension plan established or to be established under this section. Police officers to participate

(11) Until a pension plan is established under this section, the Metropolitan Board shall deduct by instalments 7 per cent of the gross salary of each member of the Metropolitan Police Force referred to in subsection 10, and the Metropolitan Corporation shall contribute an equivalent amount and shall pay over to the treasurer of the Metropolitan Corporation all deductions and contributions which shall be held by him in trust in a provisional fund. Contributions in provisional fund

(12) At the request of the Metropolitan Board, Transfer of assets

(a) the ownership of the assets of the Toronto Police Benefit Fund;

(b) a sum equal to the amount standing to the credit of the chief constable, constables and other police officers of each area municipality, except the City of Toronto, in the pension plan of the area municipality; and

(c) the interest of every such police officer in the pension plan of an area municipality provided by contract with Her Majesty in accordance with the *Government Annuities Act* (Canada) or with an insurer, R.S.C. 1952, c. 132

shall be transferred to the provisional fund under subsection 11 until the pension plan is established under this section and thereafter to such pension plan. 1956, c. 53, s. 18, *part*.

(13) The ownership of all securities registered in the name of the Toronto Police Benefit Fund shall be deemed to be transferred upon the various registry books of the issuers of such securities to the name of the Metropolitan Toronto Police Benefit Fund. 1957, c. 81, s. 35. Securities deemed transferred on registry books

(14) Where any area municipality is committed to make payments in any year into the pension plan of any area municipality or the Toronto Police Benefit Fund with respect to past services of any chief constable, constable or other police officer, the area municipality shall pay over in such year the amounts for which it is so committed to the provisional fund under subsection 11 until the pension plan is established under this section and thereafter to such pension plan. Payments for which area municipality committed



Assets of  
provisional  
fund  
transferred

(15) When a pension plan is established under this section, the assets of the provisional fund shall be transferred thereto.

Sick leave  
credits

(16) The Metropolitan Board shall establish, effective on and after the 1st day of January, 1957, a sick leave credit plan for the chief constable, constables and other police officers who are members of the Metropolitan Police Force, and shall provide therein for sick leave credits at least equivalent to those to which each such person would have been entitled if he had remained a member of a police force in an area municipality and shall place to the credit of each such person the sick leave credits standing to his credit in the plan of the area municipality.

Holidays

(17) Where a chief constable, constable or other police officer of an area municipality becomes a member of the Metropolitan Police Force under section 200, the Metropolitan Board shall provide, during the first year he is such a member, for holidays with pay at least equivalent to those to which such police officer would have been entitled if he had remained a member of the police force of the area municipality. 1956, c. 53, s. 18, *part*.

Metropolitan  
Corporation  
deemed  
city under  
R.S.O. 1960,  
c. 226

#### MAGISTRATES

**203.**—(1) The Metropolitan Corporation shall be deemed to be a city for the purposes of *The Magistrates Act*.

Application  
of  
R.S.O. 1960,  
c. 226

(2) *The Magistrates Act* does not apply to the City of Toronto and any reference to the City of Toronto in that Act shall be deemed to be a reference to the Metropolitan Corporation. 1956, c. 53, s. 18, *part*.

Use of  
buildings

**204.** The Metropolitan Corporation may for the purposes of the magistrates assigned to the Metropolitan Corporation continue to use any court room and office accommodation provided by The Corporation of the City of Toronto for the purposes of the magistrates assigned to the City of Toronto on the 31st day of December, 1956, on such terms and at such rental as may be agreed upon and failing agreement as may be determined by the Municipal Board. 1956, c. 53, s. 18, *part*.

Transfer of  
personal  
property

**205.** At the request of the Metropolitan Corporation,

(a) there shall be transferred to the Metropolitan Corporation without compensation all office supplies and stationery used exclusively for the purposes of the magistrates' courts in the Metropolitan Area on the 31st day of December, 1956;

(b) there shall be transferred to the Metropolitan Corporation without compensation all public personal property, with the exception of office supplies and stationery, used exclusively for the purposes of the magistrates' courts in the Metropolitan Area on the 15th day of February, 1956;

(c) there shall be made available to the Metropolitan Corporation all personal property, the use of which was shared by the magistrates' courts and any department or departments of any area municipality on the 15th day of February, 1956, to the same extent as the magistrates used the property on the 15th day of February, 1956, on such terms as may be agreed upon and failing agreement as may be determined by the Municipal Board. 1956, c. 53, s. 18, *part.*

**206.** The Metropolitan Corporation shall be deemed to be a city for the purpose of section 151 of *The Highway Traffic Act*. 1956, c. 53, s. 18, *part.* Metropolitan Corporation deemed a city under R.S.O. 1960, c. 172

**207.** The Metropolitan Corporation shall be deemed to be a municipality for the purpose of section 87 of *The Liquor Licence Act*. 1956, c. 53, s. 18, *part.* Metropolitan Corporation deemed a municipality under R.S.O. 1960, c. 218

**208.** The fines and penalties that but for this Act would otherwise belong to an area municipality belong to the Metropolitan Corporation. 1956, c. 53, s. 18, *part.* Penalties

## PART XII

### LICENSING COMMISSION

**209.** In this Part, "Licensing Commission" means the licensing commission established for The Municipality of Metropolitan Toronto under this Part. 1956, c. 53, s. 18, *part.* Interpretation

**210.—(1)** There shall be a licensing commission for The Municipality of Metropolitan Toronto to be known as Metro-Licensing Commission composed of, Licensing Commission

(a) the chairman of the Metropolitan Council or his delegate; and

(b) two magistrates designated by the Lieutenant Governor in Council.

(2) The chairman of the Metropolitan Council may designate any member of the Metropolitan Council to be his Chairman may appoint delegate

delegate at any or all of the meetings of the Licensing Commission. 1956, c. 53, s. 18, *part*.

Chairman  
and quorum

(3) The Licensing Commission shall elect a chairman and may elect a vice-chairman, and a majority of the members of the Licensing Commission constitutes a quorum. 1960, c. 72, s. 7.

Powers

**211.**—(1) The Licensing Commission has all the powers that may be exercised,

(a) by boards of commissioners of police under,

R.S.O. 1960,  
c. 249

(i) paragraphs 1, 4 and 6 of section 395 of *The Municipal Act*.

(ii) paragraphs 7 and 8 of subsection 1 of section 399 of *The Municipal Act*,

(iii) paragraphs 4, 5, 12 and 14 of section 401 of *The Municipal Act*;

(b) by councils of cities under paragraph 1 of section 390 of *The Municipal Act*. 1956, c. 53, s. 18, *part*.

Idem

(2) The Metropolitan Council, by reference to the provisions of any Act, may by by-law authorize the Licensing Commission to exercise the powers of any area municipality or board of commissioners of police with respect to the licensing, revoking of a licence, regulating, governing, prohibiting or limiting of any trade, calling, business or occupation or the person carrying on or engaged in it and upon being so authorized the Licensing Commission may exercise such powers. 1956, c. 53, s. 18, *part*; 1960, c. 72, s. 8.

Licensing  
Commission  
may summon  
witnesses

**212.** The Licensing Commission has the same power to summon and examine witnesses on oath as to any matter connected with the execution of its powers and duties or as to any matter respecting any licence issued before the 1st day of January, 1957, by any body that formerly exercised the powers now vested in the Licensing Commission, to enforce their attendance and to compel them to give evidence and produce documents and things, as is vested in any court of law in civil cases. 1957, c. 81, s. 36.

By-laws

**213.** Where a by-law of the Licensing Commission passed under a provision of *The Municipal Act* or any other Act is applicable to an area municipality, any by-law of the area municipality passed under the same provision of *The Municipal Act* or any other Act has no effect and the area municipality does not have power to pass such a by-law while the by-law passed by the Licensing Commission is in effect in such area municipality. 1956, c. 53, s. 18, *part*.



**214.** All the powers and duties of a board of commissioners of police under *The Municipal Act* or any other Act and all the powers and duties of the Board of Commissioners of Police for the City of Toronto under any special Act, except those which by this Act are exercised by the Licensing Commission or the Metropolitan Board of Commissioners of Police, shall after the 1st day of January, 1957, be exercised by the council of the City of Toronto. 1956, c. 53, s. 18, *part*.

Powers of boards of commissioners of police to be exercised by City of Toronto

**215.** Sections 247 and 248 and Part XXI of *The Municipal Act* apply *mutatis mutandis* to the Licensing Commission and to the by-laws passed by the Licensing Commission, and the Licensing Commission shall fix the fees to be paid for any licence. 1956, c. 53, s. 18, *part*.

Application of R.S.O. 1960, c. 249

**216.** The Metropolitan Corporation shall pay to the members of the Licensing Commission for their services such remuneration as may be determined by the Metropolitan Corporation. 1956, c. 53, s. 18, *part, amended*.

Remuneration of members

## PART XIII

### HOUSING AND REDEVELOPMENT

**217.**—(1) The Metropolitan Corporation and the Metropolitan Council have all the powers conferred on the corporation or council of a municipality under *The Housing Development Act* or any other Act with respect to housing or building development, housing projects, temporary housing accommodation and redevelopment areas and with respect to any other matter concerned with the provision or improvement of housing accommodation. 1953, c. 73, s. 176 (1); 1957, c. 81, s. 37.

Housing and redevelopment R.S.O. 1960, c. 182

(2) Nothing in subsection 1 shall be deemed to limit or interfere with the powers of the area municipalities with respect to the matters mentioned in subsection 1. 1953, c. 73, s. 176 (2).

Powers of area municipalities

**218.** Without limiting its powers under subsection 1 of section 217, the Metropolitan Corporation,

Agreements with municipalities

(a) shall be deemed to be a governmental authority within the meaning of section 17 of *The Housing Development Act*; and

(b) may enter into agreements with any area municipality for sharing or contributing to the costs incurred by the area municipality in exercising any of its powers with respect to the matters mentioned in subsection 1 of section 217. 1953, c. 73, s. 177; 1957, c. 81, s. 38.

## PART XIV

## PLANNING

Metropoli-  
tan Toronto  
Planning  
Area

**219.**—(1) The Metropolitan Toronto Planning Area is hereby continued.

Designated  
municipality  
R.S.O. 1960,  
c. 296

(2) The Metropolitan Corporation shall be the designated municipality within the meaning of *The Planning Act* for the purposes of the said planning area.

Planning  
board

(3) The planning board for the planning area shall be constituted as provided in *The Planning Act* except that the membership of the board shall at all times include two persons recommended by The Metropolitan School Board and approved, before the 1st day of April, 1960, by the Minister of Planning and Development or, after that date, by the Minister of Municipal Affairs.

Subsidiary  
planning  
areas

(4) Subject to subsection 5, all planning areas and subsidiary planning areas established before the 2nd day of April, 1953, which are included in The Metropolitan Toronto Planning Area, are subsidiary planning areas within the said planning area.

Dissolution  
of Toronto  
and York  
Planning  
Area

(5) On the day The Metropolitan Toronto Planning Area is defined, the planning area constituted under *The Planning Act* and consisting of the whole of the County of York, and the Toronto and York Planning Board, are dissolved.

Proviso

(6) Nothing in subsection 4 affects any official plan in effect in any subsidiary planning area.

Subsidiary  
plans

(7) When the Minister has approved an official plan adopted by the Metropolitan Council,

(a) any official plan then in effect in a subsidiary planning area affected thereby shall be amended to conform therewith;

(b) no official plan of a subsidiary planning area shall be adopted that does not conform therewith;

(c) no public work, as defined in *The Planning Act*, shall be undertaken, and no by-law shall be passed, by any municipality or local board within The Metropolitan Toronto Planning Area, that does not conform therewith. 1953, c. 73, s. 179; 1957, c. 81, s. 39, amended.

Application  
of R.S.O.  
1960, c. 296  
to Metro-  
politan  
Corporation

**220.**—(1) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of sections 1 to 19, 23 to 25, 28, 33 and 34 of *The Planning Act* and no area municipality shall be deemed to be a municipality for the

purposes of section 7 of *The Planning Act* with respect to the financial requirements of the board of The Metropolitan Toronto Planning Area. 1953, c. 73, s. 180; 1957, c. 81, s. 40; 1960, c. 72, s. 9 (1).

(2) The Metropolitan Corporation may enter into agreements with area municipalities or persons relating to conditions of approval of plans of subdivision and shall be deemed to have always had authority to enter into such agreements. 1960, c. 72, s. 9 (2). Agreement re plans of subdivision

**221.** The scope and general purpose of the official plan for The Metropolitan Toronto Planning Area includes, Scope and purposes of official plan

- (a) land uses and consideration generally of industrial, agricultural, residential and commercial areas;
- (b) ways of communication;
- (c) sanitation;
- (d) green belts and park areas;
- (e) public transportation,

and such other matters as the Minister of Municipal Affairs may from time to time define under *The Planning Act*. 1953, c. 73, s. 181; 1957, c. 81, s. 41.

**222.** Except as provided in this Part, the provisions of *The Planning Act* continue to apply. 1953, c. 73, s. 182; 1957, c. 81, s. 42. Application of R.S.O. 1960, c. 296

## PART XV

### PARKS, RECREATION AREAS, ETC.

**223.**—(1) The Metropolitan Council may pass by-laws for acquiring land for and establishing, laying out and improving and maintaining public parks, zoological gardens, recreation areas, squares, avenues, boulevards and drives in the Metropolitan Area or in any adjoining local municipality in the County of Ontario or the County of Peel or in any local municipality in the County of York, and for exercising all or any of the powers that are conferred on boards of park management by *The Public Parks Act*. 1953, c. 73, s. 184; 1956, c. 53, s. 19. Acquiring land for parks, etc. R.S.O. 1960, c. 329

(2) Paragraphs 65 and 66 of section 377 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. 1955, c. 50, s. 19. Application of R.S.O. 1960, c. 249

**224.**—(1) Where the Metropolitan Corporation has acquired land under section 223, the Metropolitan Council may agree to pay annually to the area municipality or other local Payments in lieu of taxes



municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes in the year of acquisition if the land were not exempt from taxation.

**Proviso**

(2) Subsection 1 does not apply where the land acquired by the Metropolitan Corporation was acquired from the municipality in which the land was situate or from a local board thereof and at the time of acquisition was used as a public park, recreation area, square, avenue, boulevard or drive. 1953, c. 73, s. 185.

**Assumption  
of existing  
parks, etc.**

**225.**—(1) For the purposes of section 223, the Metropolitan Council may with the approval of the Municipal Board by by-law assume any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or in any local board thereof, and upon the passing of the by-law the public park, zoological gardens, recreation area, square, avenue, boulevard or drive vests in the Metropolitan Corporation. 1953, c. 73, s. 186 (1); 1956, c. 53, s. 20 (1).

**Existing  
debenture  
liability**

(2) Where the Metropolitan Corporation assumes any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or local board thereof,

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of the property assumed. 1953, c. 73, s. 186 (2); 1956, c. 53, s. 20 (2).

**Default**

(3) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 2, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

**Settling of  
doubts**

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the property assumed, the Municipal Board, upon application, may determine the matter and its decision is final.

**C.N.E.  
lands exempt**

(5) Nothing in this section authorizes the Metropolitan Council to assume any of the lands in the City of Toronto from time to time made available to the Canadian National Exhibition Association. 1953, c. 73, s. 186 (3-5).

**226.**—(1) For the purposes of section 223, all land comprising Toronto Islands owned by the City of Toronto and all rights of the City of Toronto to use and occupy land comprising Toronto Islands owned by The Toronto Harbour Commissioners, except such portions of all such lands as are set aside and used or required for the purposes of the Toronto Island Airport, are vested in the Metropolitan Corporation as of the 1st day of January, 1956, subject to the provisions of then existing leases, and, subject to subsection 2, no compensation or damages shall be payable to the City of Toronto in respect thereof.

Lands on  
Toronto  
Islands  
transferred

(2) The Metropolitan Corporation shall pay to the City of Toronto,

Metropolitan  
Corporation  
liability

- (a) before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the City of Toronto for the purposes of the land and rights vested by this section in the Metropolitan Corporation;
- (b) the amount approved by the Municipal Board and expended by the City of Toronto, but not debentured, for shore protection of Algonquin Island;
- (c) the amount approved by the Municipal Board and expended by the City of Toronto, but not debentured, for acquisition of leasehold interests and clearing of sites;
- (d) such amount for personal property, exclusive of leaseholds, transferred to the Metropolitan Corporation as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto;
- (e) the amount of the expenses incurred by the City of Toronto after the 1st day of January, 1956, with respect to the operation and maintenance of the land and rights vested by this section in the Metropolitan Corporation

(3) Where any portion of the land and rights vested by this section in the Metropolitan Corporation is being used by the City of Toronto for the purpose of providing municipal services other than park and recreation services, the City of Toronto may continue to use such portion rent free so long as it is required to provide such municipal services.

Use by  
City of  
Toronto

(4) The Metropolitan Corporation shall pay to the City of Toronto annually such amount for the lighting, refuse collection and disposal services provided by the City of Toronto in respect of the land and rights vested by this

Metropolitan  
Corporation  
liable for  
lighting, etc.

section in the Metropolitan Corporation as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto.

Lands not  
used for  
park  
purposes

(5) If any of the land vested by this section in the Metropolitan Corporation and any land comprising Toronto Islands, which is hereafter conveyed by The Toronto Harbour Commissioners to the Metropolitan Corporation, ceases to be used for any of the purposes of section 223, the Metropolitan Corporation shall thereupon transfer such land to the City of Toronto and no compensation or damages shall be payable to the Metropolitan Corporation in respect thereof; provided this subsection does not apply to any land so long as it continues to be used as at the 1st day of January, 1956, under any then existing lease or renewal or extension thereof.

Settling  
of doubts

(6) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for the purposes of the land and rights vested by this section in the Metropolitan Corporation or of failure to agree as to the amount to be paid for the personal property transferred to the Metropolitan Corporation or as to the amount to be paid for lighting, refuse collection and disposal services provided by the City of Toronto, the Municipal Board, upon application, may determine the matter, and its decision is final. 1956, c. 53, s. 21.

## PART XVI

### FINANCES

Interpre-  
tation

R.S.O. 1960,  
c. 23

**227.** In this Part, "rateable property" includes business and other assessment made under *The Assessment Act*. 1953, c. 73, s. 188.

Investment  
of moneys  
not  
immediately  
required  
R.S.O. 1960,  
c. 249

**228.** Section 302 of *The Municipal Act* applies *mutatis mutandis* to the Metropolitan Corporation. 1957, c. 81, s. 43.

### YEARLY LEVIES AND ESTIMATES

Yearly  
estimates

**229.**—(1) The Metropolitan Council shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the Metropolitan Corporation, including the sums required by law to be provided by the Metropolitan Council for school purposes and for any local board of the Metropolitan Corporation, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Department may from time to time prescribe. 1953, c. 73, s. 189 (1).



(2) In preparing the estimates, the Metropolitan Council shall make due allowance for a surplus of any previous year which will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves within such limits as to type and amount as the Department may approve but shall not make any allowance for payments to be received during the current year under *The Municipal Unconditional Grants Act*. 1958, c. 68, s. 19. Allowance to be made in estimates  
R.S.O. 1960, c. 259

**230.**—(1) The Metropolitan Council shall in each year levy against the area municipalities a sum sufficient, Levy on area municipalities

- (a) for payment of the estimated current annual expenditures as adopted;
- (b) for payment of all debts of the Metropolitan Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the Metropolitan Corporation is liable under this Act. 1953, c. 73, s. 190 (1); 1959, c. 65, s. 10.

(2) The Metropolitan Council shall ascertain and by by-law direct what portion of the sum mentioned in subsection 1 shall be levied against and in each area municipality. Apportionment

(3) The amount levied under subsection 1 for public school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for public school purposes in each of the area municipalities bears to the whole rateable property rateable for public school purposes in the Metropolitan Area, according to the last revised assessment rolls. Public school purposes

(4) The amount levied under subsection 1 for secondary school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for secondary school purposes in each of the area municipalities bears to the whole rateable property rateable for secondary school purposes in the Metropolitan Area, according to the last revised assessment rolls. Secondary school purposes

(5) All other amounts levied under subsection 1 shall be apportioned among the area municipalities in the proportion that the whole rateable property in each area municipality bears to the whole rateable property in the Metropolitan Area, according to the last revised assessment rolls. 1953, c. 73, s. 190 (2-5). Other purposes

Apportionment where all rolls not revised

(6) Notwithstanding subsections 3, 4 and 5, the Metropolitan Council may pass its by-law under subsection 2 before the assessment rolls of all the area municipalities are revised by the courts of revision, and in that case the levies shall be apportioned among the area municipalities according to the last revised assessment rolls of those area municipalities whose assessment rolls have been so revised and the assessment rolls as returned of those area municipalities whose assessment rolls have not been so revised.

Adjustment

(7) Where the by-law under subsection 2 is passed as provided in subsection 6, the Metropolitan Council shall, forthwith after the assessment rolls of all the area municipalities have been revised by the courts of revision, amend the by-law so as to make the apportionments among the area municipalities according to the assessment rolls as so revised, and,

(a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the Metropolitan Corporation; and

(b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay to the treasurer of the Metropolitan Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Metropolitan Corporation shall pay the amount of the decrease to the treasurer of the area municipality. 1955, c. 50, s. 20 (1).

Fixed assessments, etc., not to apply

R.S.O. 1960, c. 23

(8) The apportionment of the levy among the area municipalities as provided for in subsections 2 to 5 shall be based on the full value of all rateable property, and no fixed assessment other than a fixed assessment under section 39 of *The Assessment Act* or partial or total exemption from assessment or taxation applies thereto, except as provided in section 4 of *The Assessment Act*. 1953, c. 73, s. 190 (6); 1955, c. 50, s. 20 (2).

Assessment upon which levy apportioned to include valuations on properties for which payments in lieu of taxes paid

(9) Notwithstanding anything in this section, the assessment upon which the levy among the area municipalities shall be apportioned shall include the valuations of all properties for which payments in lieu of taxes are paid by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or The Hydro-Electric Power Commission of Ontario to any area municipality. 1957, c. 81, s. 45 (1).

(10) One by-law or several by-laws for making the levies <sup>Levy by-laws</sup> may be passed as the Metropolitan Council may deem expedient.

(11) The clerk of the Metropolitan Corporation shall forthwith after the metropolitan levies have been apportioned certify to the clerk of each area municipality the amount that has been so directed to be levied therein for the then current year for metropolitan purposes showing separately the amounts required for public school purposes, secondary school purposes and general purposes. 1953, c. 73, s. 190 (7, 8). <sup>Certificate of levy</sup>

(12) Subject to subsections 5, 6 and 7 of section 57 of *The Assessment Act*, in each area municipality, the metropolitan levy, <sup>Local levies for metropolitan purposes R.S.O. 1960, c. 23</sup>

- (a) for public school purposes, shall be calculated and levied upon the whole rateable property rateable for public school purposes;
- (b) for secondary school purposes, shall be calculated and levied upon the whole rateable property rateable for secondary school purposes; and
- (c) for all other purposes, shall be calculated and levied upon the whole rateable property rateable for such purposes,

within such area municipality according to the last revised assessment roll thereof. 1953, c. 73, s. 190 (9); 1955, c. 50, s. 20 (3).

(13) All moneys levied against an area municipality under the authority of this section shall be deemed to be taxes and are a debt of the area municipality to the Metropolitan Corporation and the treasurer of every area municipality shall pay the moneys so levied to the treasurer of the Metropolitan Corporation at the times and in the amounts specified by the by-law of the Metropolitan Council mentioned in subsection 2. 1953, c. 73, s. 190 (10); 1957, c. 81, s. 45 (2). <sup>Payment</sup>

(14) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. 1953, c. 73, s. 190 (11). <sup>Default</sup>

**231.**—(1) The Metropolitan Council in each year shall determine, in accordance with subsections 2 and 3, what proportion of the total of the sums to be levied against the area municipalities under section 230 shall be raised by levy, <sup>Metropolitan Council to determine amounts to be raised by levy on business and residential properties</sup>

(a) on the total of,

- (i) the assessment for real property that is used as a basis for computing business assessment including the assessment for real property



that is rented and is occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal or metropolitan corporation or local board thereof, and

(ii) the business assessment, and

(iii) the assessment for mineral lands, railway lands and pipe lines and the assessment of telephone and telegraph companies,

in the Metropolitan Area, according to the last revised assessment rolls; and

(b) on the total assessment for real property in the Metropolitan Area according to the last revised assessment rolls except the assessments for real property mentioned in subclauses i and iii of clause a.

**Business  
properties**

(2) The amount to be raised in each year by levy on the total of the assessments under clause a of subsection 1 shall be a sum equal to the proportion of the total of the sums to be levied against the area municipalities under section 230 that the total of the assessments under clause a of subsection 1 bears to the total assessment for real property and business assessment in the Metropolitan Area according to the last revised assessment rolls. 1957, c. 81, s. 46, *part*.

**Residential  
properties**

(3) The amount to be raised in each year by levy on the total assessment under clause b of subsection 1 shall be a sum equal to the proportion of the total of the sums to be levied against the area municipalities under section 230 that the total assessment under clause b of subsection 1 bears to the total assessment for real property and business assessment in the Metropolitan Area according to the last revised assessment rolls less the amount of the estimated revenue from payments to be received in that year by the Metropolitan Corporation under section 7 of *The Municipal Unconditional Grants Act*. 1957, c. 81, s. 46, *part*; 1960, c. 72, s. 10.

R.S.O. 1960,  
c. 259

**Yearly  
rates to  
be levied**

(4) The Metropolitan Council in each year shall require each area municipality to levy,

(a) on the whole of,

(i) the assessment for real property that is used as the basis for computing business assessment including the assessment for real property that is rented and is occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other

agency thereof, or by any municipal or metropolitan corporation or local board thereof, and

- (ii) the business assessment, and
- (iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines and the assessment of telephone and telegraph companies,

according to the last revised assessment roll, a sum equal to the proportion of the amount required to be raised under subsection 2 that the whole of such assessments bears to the total of such assessments in the Metropolitan Area according to the last revised assessment rolls; and

- (b) on the whole of the assessment for real property, except the assessment for real property mentioned in subclause i and iii of clause *a*, according to the last revised assessment roll, a sum equal to the proportion of the amount required to be raised under subsection 3 that the whole of such assessment bears to the total of such assessments in the Metropolitan Area according to the last revised assessment rolls. 1957, c. 81, s. 46, *part*; 1959, c. 65, s. 11.

#### RESERVE FUNDS

**232.**—(1) The Metropolitan Council may in each year, if <sup>Reserve funds</sup> authorized by a two-thirds vote of the members present at a meeting, provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds.

(2) The moneys raised for a reserve fund established under subsection 1 shall be paid into a special account and may be <sup>Investments and income</sup> invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment <sup>R.S.O. 1960, c. 408</sup> of such moneys form part of the reserve fund.

(3) The moneys raised for a reserve fund established under subsection 1 shall not be expended, pledged or applied to any <sup>Expenditure of reserve fund moneys</sup> purpose other than that for which the fund was established without the approval of the Department.

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under <sup>Auditor to report on reserve funds</sup> subsection 1. 1953, c. 73, s. 191.

#### TEMPORARY LOANS

**233.**—(1) The Metropolitan Council may by by-law, <sup>Current borrowings</sup> either before or after the passing of by-laws for imposing levies on the area municipalities for the current year, authorize the

chairman and treasurer to borrow from time to time by way of promissory note such sums as the Metropolitan Council may deem necessary to meet, until the levies are received, the current expenditures of the Metropolitan Corporation for the year, including the amounts required for principal and interest falling due within the year upon any debt of the Metropolitan Corporation, and the sums required by law to be provided by the Metropolitan Council for school purposes and for any local board of the Metropolitan Corporation.

Limit upon borrowings

(2) The amount that may be borrowed in any year for the purposes mentioned in subsection 1 shall not, except with the approval of the Municipal Board, exceed 70 per cent of the total amount of the estimated revenues of the Metropolitan Corporation as set forth in the estimates adopted for the year. 1953, c. 73, s. 192 (1, 2).

Temporary application of estimates of preceding year

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 2 shall temporarily be calculated upon the estimated revenues of the Metropolitan Corporation as set forth in the estimates adopted for the next preceding year. 1953, c. 73, s. 192 (3), *amended*.

Exclusion from estimated revenues

(4) For the purposes of subsections 2 and 3, estimated revenues shall not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of levies and proceeds from the sale of assets.

Protection of lender

(5) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

Execution of promissory notes

(6) Any promissory note made under the authority of this section shall be sealed with the seal of the Metropolitan Corporation and signed by the chairman or by some other person authorized by by-law to sign it, and by the treasurer, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Creation of charge

(7) The Metropolitan Council may by by-law provide or authorize the chairman and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the Metropolitan Corporation for the current year and for any preceding years as and when such revenues are received; provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.



(8) Any agreement entered into under subsection 7 shall be sealed with the corporate seal and signed by the chairman and treasurer. Execution of agreements

(9) If the Metropolitan Council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years. Penalty for excess borrowings

(10) If the Metropolitan Council authorizes the application of any revenues of the Metropolitan Corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. Penalty for misapplication of revenues by Metropolitan Council

(11) If any member of the Metropolitan Council or officer of the Metropolitan Corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. Penalty for misapplication of revenues by officials

(12) Subsections 9, 10 and 11 do not apply to the Metropolitan Council or any member of the Metropolitan Council or officer of the Metropolitan Corporation acting under an order or direction issued or made under the authority of Part III of *The Department of Municipal Affairs Act*, nor do they apply in any case where application of the revenues of the Metropolitan Corporation is made with the consent of the lender in whose favour a charge exists. 1953, c. 73, s. 192 (4-12). Saving as to penalties R.S.O. 1960, c. 98

#### DEBT

**234.**—(1) Subject to the limitations and restrictions in this Act and *The Ontario Municipal Board Act*, the Metropolitan Council may borrow money for the purposes of, Debt R.S.O. 1960, c. 274

- (a) the Metropolitan Corporation, including the purposes of the Toronto Transit Commission;
- (b) any area municipality;
- (c) the joint purposes of any two or more area municipalities;

(d) any board of education in the Metropolitan Area, whether under this or any general or special Act, and may issue debentures therefor on the credit of the Metropolitan Corporation. 1953, c. 73, s. 193 (1).

(2) Notwithstanding any other provision of this Part, the Metropolitan Corporation may expend moneys for the purposes of an extension to the rapid transit system of the Toronto Authority to expend moneys for rapid transit extension

Transit Commission and may issue debentures therefor for any term or terms not exceeding forty years and may, with the approval of the Municipal Board, provide for the re-financing of not more than one-half of the amount of any such issue at the end of the term thereof, provided that the total period for repayment of the debt created shall not exceed forty years. 1958, c. 68, s. 20.

**Liability**

(3) All debentures issued pursuant to a by-law passed by the Metropolitan Council under the authority of this Act are direct, joint and several obligations of the Metropolitan Corporation and the area municipalities notwithstanding the fact that the whole or any portion of the rates imposed for the payment thereof may have been levied only against one or more of the area municipalities but nothing in this subsection affects the rights of the Metropolitan Corporation and of the area municipalities respectively as among themselves.

**Limitation**

(4) Notwithstanding any general or special Act, no area municipality has, after the 31st day of December, 1953, power to issue debentures.

**Uncom-  
pleted works**

(5) When an area municipality, prior to the 31st day of December, 1953,

(a) has applied for and obtained the final approval of the Municipal Board in respect of any work, project or other matter mentioned in subsection 1 of section 64 of *The Ontario Municipal Board Act*; and

**R.S.O. 1960  
c. 274**

(b) has entered into a contract for or authorized the commencement of such work, project or matter but has not prior to that date issued the debentures authorized,

the Metropolitan Council, upon the request of the council of the area municipality, shall pass a by-law authorizing the issue and sale of debentures of the Metropolitan Corporation for the purposes and in the amount approved by the Municipal Board and shall, if required by the area municipality, issue such debentures and provide temporary financing for the area municipality in the manner provided in section 237, and no further approval of the Municipal Board is required. 1953, c. 73, s. 193 (2-4).

**Bonds,  
debentures,  
etc.,  
trustee  
investments****R.S.O. 1960,  
c. 408**

(6) Bonds, debentures and other evidences of indebtedness of the Metropolitan Corporation shall be deemed to be bonds, debentures and other evidences of indebtedness of a municipal corporation for the purposes of *The Trustee Act*. 1960, c. 72, s. 11.

**235.**—(1) Subject to the limitations and restrictions in this Act and *The Ontario Municipal Board Act*, the Metropolitan Corporation may by by-law incur a debt or issue debentures for the purposes set forth in subsection 1 of section 234 of this Act and, notwithstanding any general or special Act, such by-law may be passed without the assent of the electors of the Metropolitan Area. 1959, c. 65, s. 13.

Power to incur debt or issue debentures R.S.O. 1960, c. 274

(2) Where, under any general or special Act, an area municipality cannot incur a debt or issue debentures for a particular purpose without the assent of its electors or without the concurrence of a specified number of the members of its council, the Metropolitan Council shall not pass a by-law authorizing the issue of debentures on behalf of such area municipality for such purpose unless such assent or concurrence to the passing of the by-law by the Metropolitan Council has been obtained.

Idem

(3) Nothing in subsection 2 requires the assent of any electors where such assent has been dispensed with under section 63 of *The Ontario Municipal Board Act*. 1953, c. 73, s. 194 (2, 3).

Proviso

**236.**—(1) Notwithstanding any general or special Act, the Municipal Board, before making any order under section 64 of *The Ontario Municipal Board Act* on the application of the Metropolitan Corporation or of any area municipality, shall hold a public hearing for the purpose of inquiring into the merits of the matter.

Hearing

(2) Notice of the hearing shall be given to the clerk of the Metropolitan Corporation and to the clerk of each area municipality in such manner as the Municipal Board may direct.

Notice

(3) The Municipal Board may dispense with the public hearing if the applicant files with the secretary of the Municipal Board a certified copy of a resolution of the council of each corporation entitled to notice under subsection 2 consenting to such dispensation. 1953, c. 73, s. 195.

Dispensation with hearing

**237.**—(1) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for its purposes, the Metropolitan Council pending the issue and sale of the debentures may agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purpose authorized, and may by by-law pending the sale of such debentures or in lieu of selling them authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan.

Borrowing pending issue and sale of debentures



Idem

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for the purposes of an area municipality or a board of education, the Metropolitan Council pending the issue and sale of the debentures may, and on the request of the area municipality or board of education shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and may, or on the request of the area municipality or board of education shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality or board of education.

Application of proceeds of loan

(3) The proceeds of every advance or loan under this section shall be applied to the purposes for which the debentures were authorized, but the lender shall not be bound to see to the application of the proceeds and, if the debentures are subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan and, where the debentures were issued for the purposes of an area municipality or board of education, the balance, subject to section 249, shall be transferred to the area municipality or board of education.

Hypothecation not to prevent subsequent sale of debentures

(4) Subject to subsection 3, the redemption of a debenture hypothecated does not prevent the subsequent sale thereof. 1953, c. 73, s. 196.

Principal and interest payments

**238.**—(1) Subject to subsection 2, a money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest. 1953, c. 73, s. 197 (2); 1955, c. 50, s. 21 (1); 1959, c. 65, s. 14 (2).

Sinking fund debentures

(2) A money by-law for the issuing of debentures may provide that the principal shall be repaid at a fixed date with interest payable annually or semi-annually, in which case debentures issued under the by-law shall be known as sinking fund debentures. 1955, c. 50, s. 21 (2), *part*; 1959, c. 65, s. 14 (3).

When debentures to be payable

(3) Notwithstanding any general or special Act, the whole debt and the debentures to be issued therefor shall be made payable within such term of years as the Municipal Board may approve.

Special levy against area municipalities

(4) The by-law may provide for raising in each year, by special levy or levies against one or more area municipalities,

the whole or specified portions of the sums of principal and interest payable under the by-law in such year, and each such area municipality shall pay to the Metropolitan Corporation such sums at the times and in the amounts specified in the by-law.

(5) The by-law shall provide for raising in each year, by a special levy on all the area municipalities, the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special levy or levies against any area municipality or municipalities made especially liable therefor by the by-law.

(6) Any special levy against an area municipality imposed by the by-law under the authority of subsection 4 may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality, for the same purpose, for the portion of the debt levied against it under subsection 4.

(7) All levies imposed by the by-law against an area municipality are a debt of the area municipality to the Metropolitan Corporation.

(8) The Metropolitan Council may by by-law authorize a change in the mode of issue of the debentures, and may provide that the debentures be issued with coupons instead of in amounts of combined principal and interest or *vice versa*, and where any debentures issued under the by-law have been sold, pledged or hypothecated by the Metropolitan Council, upon again acquiring them, or at the request of any holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year.

(9) All the debentures shall be issued at one time and within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the Metropolitan Council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years after the passing of the by-law.

Date of debentures (10) All the debentures shall bear the same date, except where they are issued in sets, in which case every debenture of the same set shall bear the same date. 1953, c. 73, s. 197 (3-10).

Idem (11) Notwithstanding the provisions of the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection 9 and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year. 1953, c. 73, s. 197 (11); 1959, c. 65, s. 14 (4).

Extension of time for issue (12) The Municipal Board, on the application of the Metropolitan Council, the council of any area municipality, a board of education or any person entitled to any of the debentures or of the proceeds of the sale thereof, may at any time extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Application after time expired (13) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Effective date (14) Unless the by-law names a later day when it is to take effect, it takes effect on the day of its passing.

Consolidation (15) Notwithstanding any general or special Act, the Metropolitan Council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor. 1953, c. 73, s. 197 (12-15).

Consolidating debenture by-laws (16) Section 283 of *The Municipal Act* applies *mutatis mutandis* to the Metropolitan Corporation. 1957, c. 81, s. 47 (1).  
R.S.O. 1960, c. 249

Redemption before maturity (17) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the Metropolitan Corporation on any date prior to maturity subject to the following provisions:

1. The by-law and every debenture that is so redeemable shall specify the place or places of payment and the amount at which such debenture may be so redeemed.
2. The principal of every debenture that is so redeemable becomes due and payable on the date set for the redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the principal



thereof, the interest to the date set for redemption, and any premium payable on redemption.

3. Notice of intention so to redeem shall be sent by post at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.
4. At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in *The Ontario Gazette* and in a daily newspaper of general circulation in the City of Toronto and in such other manner as the by-law may provide.
5. Where only a portion of the debentures issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates, and no debentures issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date.
6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the Metropolitan Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the Metropolitan Council in respect of the debenture so redeemed.

(18) The by-law may provide that the debentures to be issued thereunder shall be expressed and be payable, <sup>Currency</sup>

- (a) in lawful money of Canada and payable in Canada; or
- (b) in lawful money of the United States of America and payable in the United States of America; or
- (c) in lawful money of Great Britain and payable in Great Britain.

(19) Where under the provisions of the by-law debentures issued thereunder are expressed and made payable in lawful money of the United States of America or of Great Britain, the Metropolitan Council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon or instalments of principal <sup>Annual rates</sup>

falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary. 1953, c. 73, s. 197 (16-18).

Principal  
levies

(20) When sinking fund debentures are issued, the amount of principal to be raised in each year shall be a specific sum which, with the estimated interest at a rate not exceeding  $3\frac{1}{2}$  per cent per annum, capitalized yearly, will be sufficient to pay the principal of the debentures or any set of them, when and as it becomes due. 1955, c. 50, s. 21 (2), *part*; 1960, c. 72, s. 12.

Consoli-  
dated  
bank  
accounts

(21) When sinking fund debentures are issued, the sinking fund committee shall keep one or more consolidated bank accounts in which,

- (a) the treasurer of the Metropolitan Corporation shall deposit each year during the term of the debentures the moneys raised for the sinking fund of all debts that are to be paid by means of sinking funds; and
- (b) there shall be deposited all earnings derived from, and all proceeds of the sale, redemption or payment of, sinking fund investments. 1957, c. 81, s. 47 (2), *part*.

Sinking  
fund  
committee

(22) When sinking fund debentures are issued, there shall be a sinking fund committee which shall be composed of the treasurer of the Metropolitan Corporation and two members appointed by the Lieutenant Governor in Council, and the two appointed members shall be paid, out of the current fund of the Metropolitan Corporation, such annual remuneration as the Lieutenant Governor in Council may determine.

Alternate  
members

(23) The Lieutenant Governor in Council may appoint an alternate member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

Chairman

(24) The treasurer of the Metropolitan Corporation shall be the chairman and treasurer of the sinking fund committee and in his absence the appointed members may appoint one of themselves as acting chairman and treasurer.

Security

(25) Each member of the sinking fund committee shall, before entering into the duties of his office, give security for the faithful performance of his duties and for duly accounting for and paying over all moneys that come into his hands, in such amount as the auditor of the Metropolitan Corporation shall determine, and in other respects the provisions of

(26) Two members of the sinking fund committee are a Quorum quorum, and all investments and disposals of investments must be approved by a majority of all the members of the committee. 1955, c. 50, s. 21 (2), *part*.

(27) All assets of the sinking funds, including all consolidated bank accounts, shall be under the sole control and management of the sinking fund committee. Control of sinking fund assets

(28) All withdrawals from the consolidated bank accounts shall be authorized by the sinking fund committee, and all cheques on the consolidated bank accounts shall be signed by the chairman or acting chairman and one other member of the sinking fund committee. Withdrawals from bank accounts

(29) The sinking fund committee shall invest any moneys on deposit from time to time in the consolidated bank accounts and may at any time or times vary any investments. Investments

(30) The moneys in the consolidated bank accounts shall be invested in one or more of the following forms: Idem

(a) in securities in which a trustee may invest under *The Trustee Act*;

R.S.O. 1960,  
c. 408

(b) in debentures of the Metropolitan Corporation;

(c) in temporary advances to the Metropolitan Corporation pending the issue and sale of any debentures of the Metropolitan Corporation;

(d) in temporary loans to the Metropolitan Corporation for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made.

(31) Any securities acquired by the sinking fund committee as investments for sinking fund purposes may be deposited with the Treasurer of Ontario. Deposit of securities with Treasurer of Ontario

(32) The Treasurer of Ontario shall release, deliver or otherwise dispose of any security deposited with him under subsection 31 only upon the direction in writing of the sinking fund committee. Release of securities by Treasurer of Ontario

(33) All sinking fund debentures issued on the same date, payable in the same currency, and maturing on the same date, notwithstanding they are issued under one or more by-laws, shall be deemed one debt and be represented by one sinking fund account. Sinking fund accounts

(34) That proportion of the amount of all earnings in any year, on an accrual basis, from sinking fund investments, obtained by, Earnings credited to sinking fund account

(a) multiplying the amount of all such earnings by the amount of the capitalized interest for that year



under subsection 20 with respect to the principal raised up to and including such year for all sinking fund debentures represented by any sinking fund account; and

- (b) dividing the product obtained under clause *a* by the amount of all capitalized interest for that year under subsection 20 with respect to all principal raised up to and including such year for all outstanding sinking fund debentures,

shall be credited to the sinking fund account mentioned in clause *a*. 1957, c. 81, s. 47 (2), *part*.

Sinking  
fund  
require-  
ments

(35) The treasurer of the Metropolitan Corporation shall prepare and lay before the Metropolitan Council in each year, before the annual metropolitan levies are made, a statement showing the sums that the Metropolitan Council will be required, by by-law, to raise for sinking funds in that year.

Offence

(36) If the treasurer contravenes subsection 21 or 35, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$250.

Failure  
to levy

(37) If the Metropolitan Council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the Metropolitan Council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. 1955, c. 50, s. 21 (2), *part*.

When  
amount in  
sinking fund  
sufficient  
to pay debt

(38) Notwithstanding this or any other Act or by-law, if it appears at any time that the amount at the credit of any sinking fund account will be more than sufficient, with the estimated earnings to be credited thereto under subsection 34 together with the levy required to be made by the by-law or by-laws that authorized the issue of the debentures represented by such sinking fund account, to pay the principal of the debt represented by such sinking fund account when it matures, the Municipal Board on the application of the sinking fund committee, the Metropolitan Council or the council of an area municipality may authorize the Metropolitan Council or the council of an area municipality to reduce the amount of the money to be raised with respect to such debt in accordance with the order of the Board. 1957, c. 81, s. 47 (2), *part*.

No diversion  
of sinking  
funds

(39) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the Metropolitan Corporation or otherwise than is provided in this section. 1955, c. 50, s. 21 (2), *part*.

(40) When there is a surplus in a sinking fund account, <sup>Surplus</sup> the sinking fund committee may authorize the use of the surplus for the purpose of retiring unmatured debentures of the Metropolitan Corporation, or of retiring unmatured debentures of an area municipality in respect of which the Metropolitan Corporation is required to pay to the area municipality all amounts of principal and interest becoming due thereon. 1957, c. 81, s. 47 (2), *part*.

(41) Notwithstanding that any sinking fund debentures <sup>Deficit and surplus</sup> have been issued for the purposes of one or more area municipalities or of a board of education, any deficit in the sinking fund account shall be provided by the Metropolitan Corporation out of its current funds and any surplus in the sinking fund account shall be used as provided in subsection 40. 1955, c. 50, s. 21 (2), *part*.

**239.**—(1) If the Municipal Board is of opinion that the <sup>When rate of interest may be varied</sup> current rate of interest so differs from the rate of interest payable on any debentures that remain unsold or undisposed of that the sale or disposal thereof may substantially decrease or increase the amount required to be provided under the by-law under which such debentures were issued, the Municipal Board may authorize the Metropolitan Council to pass a by-law to amend such by-law so as to provide for,

- (a) a different rate of interest;
- (b) a change in the amount to be raised annually and, if necessary, in the special levies;
- (c) such other changes in such by-law or any other by-law as to the Municipal Board may seem necessary to give effect thereto;
- (d) the issue of new debentures to bear interest at the amended rate in substitution and exchange for such first-mentioned debentures; and
- (e) the cancellation of such first-mentioned debentures upon the issue of such new debentures in substitution and exchange therefor.

(2) For the purposes of this section, the hypothecation of <sup>Hypothecation not a sale under this section</sup> debentures under section 237 shall not constitute a sale or other disposal thereof.

(3) The Metropolitan Council may by one by-law <sup>Consolidation of debentures</sup> authorized under subsection 1 amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

Special  
assessments  
and levies

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the Metropolitan Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the Metropolitan Council. 1953, c. 73, s. 198.

Repeal of  
by-law when  
part only  
of money to  
be raised

**240.**—(1) Where part only of a sum of money provided for by a by-law has been raised, the Metropolitan Council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

When to  
take effect

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates or levies due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. 1953, c. 73, s. 199.

Until debt  
paid certain  
by-laws  
cannot be  
repealed

**241.**—(1) Subject to section 240, after a debt has been contracted under a by-law, the Metropolitan Council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating, for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the Metropolitan Corporation that has been directed to be applied to such payment.

Application  
of payments

(2) When the Metropolitan Corporation, by or under the authority of this Act, pays to an area municipality any amount of principal and interest becoming due upon any outstanding debentures issued by the area municipality, neither the council of the area municipality nor any officer thereof shall apply any of the money so paid for any purpose other than the payment of the amounts of principal and interest so becoming due. 1953, c. 73, s. 200.

Offence for  
neglect of  
officer to  
carry out  
by-law

**242.** Any officer of the Metropolitan Corporation whose duty it is to carry into effect any of the provisions of a money by-law of the Metropolitan Corporation, who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1953, c. 73, s. 201.



**243.**—(1) Within four weeks after the passing of a money by-law, the clerk of the Metropolitan Corporation may register a duplicate original or a copy of it, certified under his hand and the seal of the Metropolitan Corporation, in the Registry Office for the Registry Division of the City of Toronto. 1953, c. 73, s. 202 (1); 1959, c. 65, s. 15 (1)

Money by-laws may be registered

(2) Subject to section 61 of *The Ontario Municipal Board Act*, every by-law registered in accordance with subsection 1, or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws passed under *The Municipal Drainage Act* or *The Local Improvement Act*, and in the case of other by-laws, within three months after the registration, an application or action to quash the by-law is made to or brought in a court of competent jurisdiction, and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought is registered in such registry office within such period of three months, or one month, as the case may be. 1953, c. 73, s. 202 (4); 1959, c. 65, s. 15 (3).

Application to quash registered by-law, when to be made R.S.O. 1960, cc. 274, 252, 223

(3) After the expiration of the period prescribed by subsection 2, if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Time when by-law to be valid and binding

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection 2, but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, is, after the expiration of that period, valid and binding according to its terms.

Quashing part of by-law

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered, and after such dismissal and the expiration of the period prescribed by subsection 2, if it has not already expired, the by-law, or so much of it as is not quashed is valid and binding according to its terms.

Dismissal of application

(6) Nothing in this section makes valid a by-law passed without the assent of the electors of an area municipality as required by subsection 2 of section 235, or a by-law where it appears on the face of it that any of the provisions of subsection 5 of section 238 have not been substantially complied with.

Illegal by-laws not validated

(7) Failure to register a by-law as prescribed by this section does not invalidate it. 1953, c. 73, s. 202 (5-9).

Failure to register

Debentures  
how sealed  
and executed

**244.**—(1) A debenture or other like instrument shall be sealed with the seal of the Metropolitan Corporation, which seal may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and, subject to subsection 3, shall be signed by the chairman, or by some other person authorized by by-law of the Metropolitan Corporation to sign it, and by the treasurer.

Interest  
coupons

(2) A debenture may have attached to it interest coupons which shall be signed by the treasurer and his signature to them may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and such interest coupons are sufficiently signed if they bear the signature of the treasurer on the date the Metropolitan Council authorized the execution of the debenture or on the date the debenture bears or at the time the debenture was issued and delivered.

Mechanical  
repro-  
duction of  
signatures

(3) The signature of the chairman, or such other person authorized by by-law to sign the debentures or other like instruments, may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and, if the debentures or other like instruments are countersigned in writing by a person authorized by by-law of the Metropolitan Corporation to countersign, the signature of the treasurer may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of  
mechanical  
repro-  
duction

(4) The seal of the Metropolitan Corporation when so engraved, lithographed, printed or otherwise mechanically reproduced has the same force and effect as if manually affixed and the signature of the chairman or such other person authorized by by-law to sign the debentures or other like instruments and, if the debentures or other like instruments are countersigned, the signature of the treasurer when so engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the chairman or other person so authorized to sign or of the treasurer, as the case may be, and is binding upon the Metropolitan Corporation.

Sufficiency  
of signatures

(5) Any debenture or other like instrument is sufficiently signed and countersigned if it bears the signatures of the persons provided in this section if such persons had authority to sign and countersign as provided in this section either on the date the Metropolitan Council authorized the execution of such instrument or on the date such instrument bears or at the time it was issued and delivered. 1958, c. 68, s. 22.

Debentures  
on which  
payment has  
been made  
for one year  
to be valid

**245.** Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the Metro-

politan Corporation, the by-law and the debentures issued under it are valid and binding upon the Metropolitan Corporation. 1953, c. 73, s. 204.

**246.**—(1) Where a debenture contains or has endorsed Mode of transfer may be prescribed upon it a provision to the following effect:

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this Corporation (or by such other person authorized by by-law of this Corporation to endorse such certificate of ownership), transferable except by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book of the Corporation at the.....  
of.....

the treasurer (or such other persons so authorized), on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given, and shall also enter in such book a memorandum of every transfer of such debenture.

(2) A certificate of ownership shall not be endorsed on a Requirements as to endorsing certificate of ownership debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, and, if the person last entered as owner of it is a corporation, the written authority of such corporation, or its successors, which authority shall be retained and filed by the treasurer.

(3) After a certificate of ownership has been endorsed, the Transfer by entry in Debenture Registry Book debenture, if it contains or has endorsed upon it a provision to the like effect of the provision contained in subsection 1, is transferable only by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney and, if the then owner of it is a corporation, the written authority of such corporation, or its successors. 1958, c. 68, s. 23.

**247.** Where a debenture is defaced, lost or destroyed, the Replacement of lost debentures Metropolitan Council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. 1953, c. 73, s. 206.



Exchange of  
debentures

**248.**—(1) On request of the holder of any debenture issued after the 3rd day of April, 1957, by the Metropolitan Corporation, the treasurer of the Metropolitan Corporation may issue and deliver to such holder a new debenture or new debentures in exchange therefor for the same aggregate principal amount. 1957, c. 81, s. 48 (1), *part, amended*.

On request  
of sinking  
fund com-  
mittee

(2) On the request of the sinking fund committee, the treasurer of the Metropolitan Corporation may, as provided in this section, exchange debentures heretofore or hereafter issued by the Metropolitan Corporation. 1957, c. 81, s. 48 (3).

New  
debentures  
of same  
force and  
effect as  
debentures  
surrendered

(3) Any new debenture mentioned in subsection 1 may be registered as to principal and interest but in all other respects shall be of the same force and effect as the debenture or debentures surrendered for exchange.

Debentures  
surrendered  
for exchange  
to be  
cancelled

(4) The treasurer and auditor of the Metropolitan Corporation shall cancel and destroy all debentures surrendered for exchange and shall certify in the Debenture Registry Book that they have been cancelled and destroyed and shall also enter in the Debenture Registry Book particulars of any new debenture issued in exchange. 1957, c. 81, s. 48 (1), *part*.

Application  
of proceeds  
of  
debentures

**249.**—(1) The moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures to the extent that such moneys are required for the purpose or purposes for which the debentures were issued, and for the repayment of any outstanding temporary loans with respect thereto, shall be used only for such purpose or purposes.

Idem

(2) None of the moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures shall be applied towards payment of the current or other expenditures of the Metropolitan Corporation, an area municipality or a board of education in the Metropolitan Area.

Surplus

(3) Where on the sale of any debentures an amount is realized in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied,

(a) if any such debentures are redeemable prior to maturity at the option of the Metropolitan Corporation, to redeem one or more of the debentures having the latest maturity date; or

(b) to reduce the next annual levy on account of principal and interest payable with respect to such debentures; or

- (c) to reduce the amount of debentures to be issued for other capital expenditures of a similar nature for which the issue of debentures has been approved by the Municipal Board, provided that the principal and interest charges of such debentures are levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures with respect to which the excess arose.

(4) Where on the sale of any debentures a deficiency in the amount required for the purpose or purposes for which the debentures were issued is sustained, the amount of such deficiency shall be added to the sum to be raised for the first annual payment of principal and interest with respect to the debentures and the levy made in the first year for such purpose or purposes shall be increased accordingly or shall be raised by the issue of other debentures approved by the Municipal Board for the same or any similar purpose or purposes. 1958, c. 68, s. 24.

**250.** When the Metropolitan Corporation intends to borrow money on debentures under this or any other Act, the Metropolitan Council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. 1953, c. 73, s. 208.

**251.—(1)** The Metropolitan Council shall,

- (a) keep a separate account of every debt;
- (b) where the whole of the debt is not payable in the current year, keep in respect thereof,
  - (i) an additional account for the interest, if any, and
  - (ii) an additional account for the sinking fund or the instalments of principal,
 distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and
- (c) keep the accounts so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for the payment of it.

1959, c. 65, s. 16.

(2) The Metropolitan Council may by by-law provide and direct that instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine

Deficiency

Tenders for  
debentures

Accounts,  
how to be  
kept

Consoli-  
dated  
interest  
account

therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt. 1953, c. 73, s. 209 (2).

**Application  
of surplus  
money**

**252.** If in any year after paying the interest and appropriating the necessary sum in payment of the instalments there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or in payment of the principal. 1953, c. 73, s. 210.

**Liability of  
members**

**253.**—(1) If the Metropolitan Council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. 1953, c. 73, s. 211 (1); 1955, c. 50, s. 23.

**Action by  
ratepayer**

(2) If the Metropolitan Council, upon the request in writing of a ratepayer of any area municipality, refuses or neglects for one month to bring an action therefor, the action may be brought by any such ratepayer on behalf of himself and all other ratepayers in the Metropolitan Area.

**Disqualifi-  
cation**

(3) The members who vote for such application are disqualified from holding any municipal office for two years. 1953, c. 73, s. 211 (2, 3).

**Refinancing  
of debentures**

**254.** When, by or under the authority of this Act, the Metropolitan Corporation is or becomes liable for the payment to an area municipality of all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality, the Metropolitan Corporation may, with the approval of the Municipal Board,

- (a) cancel all such debentures that have not been sold and issue new debentures of the Metropolitan Corporation in substitution and exchange therefor and apply the proceeds thereof, as may be directed by the Municipal Board, for the purposes for which such debentures were issued;
- (b) arrange with the area municipality for the redemption of all such debentures as are redeemable and issue new debentures of the Metropolitan Corporation to raise the moneys required for such redemption;
- (c) purchase, by agreement with the owner or owners thereof, all such debentures of a single issue of the area municipality, and issue new debentures of the Metropolitan Corporation to raise the money required to complete such purchase. 1953, c. 73, s. 212.



## PART XVII

### GENERAL

**255.**—(1) Section 5, Parts XV, XVI, XVII and XXI and paragraphs 3, 21 and 22 of section 377 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. 1953, c. 73, s. 214 (1). Application of R.S.O. 1960, c. 249

(2) For the purposes of subsection 2 of section 482 of *The Municipal Act*, the by-laws of the Metropolitan Corporation or of any local board thereof shall be deemed to be by-laws passed by the council of a city. 1956, c. 53, s. 22 (1). Deemed city under R.S.O. 1960, c. 249

(3) Nothing in this Act alters or affects the powers of the Municipal Board under, and the application of, section 14 of *The Municipal Act*. 1953, c. 73, s. 214 (2); 1957, c. 81, s. 49 (1). Annexations and amalgamations

(4) The Metropolitan Corporation and each local board thereof shall be deemed to be a municipality for the purpose of section 89 of *The Labour Relations Act*. 1953, c. 73, s. 214 (3). Application of R.S.O. 1960, c. 202

(5) Nothing in this Act alters or affects the powers of The Toronto Harbour Commissioners. 1953, c. 73, s. 214 (5). Harbour commission

(6) Where a by-law passed by the Metropolitan Council under section 399 of *The Municipal Act*, being chapter 243 of the Revised Statutes of Ontario, 1950, is applicable to an area municipality, any by-law passed by the council of such area municipality under paragraph 70 of subsection 1 of section 388 or under section 399 of *The Municipal Act*, being chapter 243 of the Revised Statutes of Ontario, 1950, or any predecessor of such paragraph or section, has no effect while the by-law passed by the Metropolitan Council is in effect in such area municipality. 1955, c. 50, s. 24, *part, amended*. Smoke abatement R.S.O. 1950, c. 243

(7) The Metropolitan Corporation shall be deemed to be a local municipality for the purpose of paragraph 116 of subsection 1 of section 379 of *The Municipal Act*. 1957, c. 81, s. 49 (2). Nuisances R.S.O. 1960, c. 249

(8) By-laws may be passed by the Metropolitan Council, Emergency measures civil defence

(a) for the establishment and maintenance of emergency measures civil defence organizations; and

(b) for providing moneys for emergency measures and civil defence, for the purposes of emergency measures civil defence organizations and for the cost of the operation of such organizations, and for other similar work within the municipality. 1960, c. 72, s. 13.

(9) Notwithstanding any other provision in this Act, the Metropolitan Council may pass by-laws authorizing the head of the department concerned to grant such of the approvals Delegation of approvals or consents

and consents required by subsection 2 of section 51, subsection 1 of section 67, subsection 2 of section 68 and subsection 2 of section 83 as are designated in the by-law, and any such by-law may prescribe terms and conditions under which any such approval or consent may be granted. 1955, c. 50, s. 24, *part.*

Expenditures  
for diffusing  
information

**256.** The Metropolitan Corporation may make expenditures not exceeding \$125,000 in any one year for the purpose of diffusing information respecting the advantages of the municipality as an industrial, business, educational, residential or vacation centre and may make annual grants for a period not exceeding five years, and upon the expiration of any such period may make similar grants for a further period not exceeding five years. 1955, c. 50, s. 25; 1959, c. 65, s. 17.

Regulating  
disposal of  
garbage, etc.

**257.—**(1) The Metropolitan Corporation may pass by-laws for acquiring land and erecting, maintaining and operating buildings, structures and machinery thereon for the purposes of dumping and disposing of garbage, refuse and domestic or industrial waste of any kind and for regulating the dumping and disposing of garbage, refuse and domestic or industrial waste of any kind upon such land and for charging a fee therefor.

Approval  
of local  
municipality

(2) No by-law passed under subsection 1 is effective until approved by the council of the local municipality in which the land is to be acquired or the dumping and disposal operations are to be carried on. 1956, c. 53, s. 23, *part.*

Grants to  
persons  
engaged  
in work  
advan-  
tageous to  
Metropolitan  
Area

**258.** The Metropolitan Council may make annual grants not to exceed in the aggregate \$250,000 in any one year to institutions, associations and persons carrying on or engaged in works which in the opinion of the Metropolitan Council are for the general advantage of the inhabitants of the Metropolitan Area and for which grant or grants there is no express authority provided by any other Act. 1956, c. 53, s. 23, *part.*

Undue noise  
from motor  
vehicles

**259.** The Metropolitan Corporation may pass by-laws prohibiting the driving or operating of motor vehicles in the Metropolitan Area that create undue noise and for the purposes of any such by-law may define the expressions motor vehicles and undue noise. 1957, c. 81, s. 50.

Payment of  
surplus  
damages

**260.** Where in an action or by the settlement of a claim arising out of an accident to an employee the Metropolitan Corporation recovers from a third person a larger amount, exclusive of costs, than the amount paid to or on behalf of

such employee as a result of the accident, the surplus amount may be paid to such employee or, in the event of his death, to one or more of his dependants. 1958, c. 68, s. 25.

**261.**—(1) Where the Metropolitan Council passes a resolution requesting a judge of the county court of the County of York, or a judge of the county court of a county adjoining the County of York, to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the Metropolitan Council, or an officer or employee of the Metropolitan Corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, employee or other person to the Metropolitan Corporation, or to inquire into or concerning any matter connected with the good government of the Metropolitan Corporation or the conduct of any part of its public business, including any business conducted by a local board of the Metropolitan Corporation, the judge shall make the inquiry and for that purpose has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*, and he shall, with all convenient speed, report to the Metropolitan Council the result of the inquiry and the evidence taken. Investigation by county judge of charges of malfeasance

(2) The judge shall be paid by the Metropolitan Corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*. Fees payable to Judge

(3) The Metropolitan Council may engage and pay counsel to represent the Metropolitan Corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the Metropolitan Corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. 1953, c. 73, s. 215. Engaging counsel

**262.**—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may issue a commission to inquire into the affairs of the Metropolitan Corporation or a local board thereof, and any matter connected therewith, and the commissioner has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. 1953, c. 73, s. 216 (1); 1957, c. 81, s. 51 (1). Commission of inquiry

(2) A commission may be recommended at the instance of the Department, or upon the request in writing of not less than one-third of the members of the Metropolitan Council, or of not less than fifty ratepayers of an area municipality assessed as owners and resident therein. 1953, c. 73, s. 216 (2). When commission may issue



Expenses of  
commission

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister and are subject to such division between the Metropolitan Corporation and the Province as the Lieutenant Governor in Council may direct. 1953, c. 73, s. 216 (3); 1957, c. 81, s. 51 (2).

Entry on  
highways,  
etc.

**263.** The Metropolitan Corporation for its purposes may enter, break up, dig and trench in, upon and under the highways, lanes and other public communications of any area municipality and may construct and maintain therein pipes, sewers, drains, conduits and other works necessary for its purposes, without making compensation therefor, but all such highways, lanes and other public communications shall be restored to their original condition without unnecessary delay. 1953, c. 73, s. 217.

Agreements  
re services

**264.** The Metropolitan Corporation and any area municipality may enter into agreements for the use within any part of the Metropolitan Area of the services of their respective officers, employees and equipment. 1953, c. 73, s. 218.

Application  
of R.S.O.  
1960, c. 23

**265.**—(1) For the purposes of paragraph 9 of section 4 and section 43 of *The Assessment Act*, the Metropolitan Corporation shall be deemed to be a municipality. 1953, c. 73, s. 219.

Metropolitan  
Corporation  
and area  
municipalities not  
deemed  
tenants  
R.S.O. 1960,  
c. 23

(2) For the purposes of paragraph 9 of section 4 of *The Assessment Act*, where property belonging to the Metropolitan Corporation is occupied by an area municipality or where property belonging to an area municipality is occupied by the Metropolitan Corporation or another area municipality, the occupant shall not be deemed to be a tenant or lessee, whether rent is paid for such occupation or not. 1959, c. 65, s. 19.

Executions  
against  
Metro-  
politan Cor-  
poration

**266.**—(1) An execution against the Metropolitan Corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings therein shall then be the following:

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the Metropolitan Corporation, or leave such copy at the office or dwelling place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.
2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff

shall examine the assessment rolls of all the area municipalities and shall, in like manner as the levies of the Metropolitan Council for general purposes are apportioned among the area municipalities, determine the portion of the amount mentioned in the statement that shall be levied against and in each area municipality.

3. The sheriff shall then in like manner as rates are struck for general municipal purposes within each area municipality strike a rate sufficient in the dollar to cover its share of the amount due from the execution and in determining such amount he may make such addition to the same as the sheriff deems sufficient to cover its share of the interest up to the time when the rate will probably be available and his own fees and poundage.
4. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the area municipality, and shall annex to the precept the roll of such rate, and shall by the precept, after reciting the writ and that the Metropolitan Corporation has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates.
5. If, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A.B. *vs.* The Municipality of Metropolitan Toronto" (adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.
6. The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the area municipality.

(2) The clerk, assessor and collector of each area municipality shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect,

Functions of  
clerk, assess-  
ors and  
collectors

the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such are amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. 1953, c. 73, s. 220.

Adjustment  
of assets,  
etc.

R.S.O. 1960,  
c. 249

Idem.

**267.**—(1) Except as provided in this Act, the Municipal Board, upon the application of any area municipality, The Corporation of the County of York or the Metropolitan Corporation, may exercise any of the powers conferred on it by clauses *a* and *d* of subsection 10 of section 14 of *The Municipal Act*. 1953, c. 73, s. 221 (1); 1957, c. 81, s. 52.

(2) In addition to its powers under subsection 1, the Municipal Board has power to direct the Metropolitan Corporation to pay to The Corporation of the County of York, in a lump sum or in its discretion over a period of years from the 1st day of January, 1954, on a progressively reduced basis, such amount as it deems just and equitable to relieve the County from any undue burden caused by the separation from the County of the municipalities mentioned in section 149. 1953, c. 73, s. 221 (2).

Conditional  
powers

**268.** The Lieutenant Governor in Council, upon the recommendation of the Municipal Board, may authorize the Metropolitan Corporation to do all such acts or things not specifically provided for in this Act that are deemed necessary or advisable to carry out effectively the intent and purposes of this Act. 1953, c. 73, s. 222.

Conflict  
with other  
Acts

**269.** The provisions of this Act apply notwithstanding the provisions of any general or special Act and, in the event of any conflict between this Act and any general or special Act, this Act prevails. 1953, c. 73, s. 224.

Township  
areas re  
hydro  
R.S.O. 1960,  
cc. 300, 335

**270.**—(1) Notwithstanding anything in *The Power Commission Act* or in *The Public Utilities Act* or in any other special or general Act, the whole of the Township of Scarborough, the whole of the Township of North York and the whole of the Township of Etobicoke shall each be deemed to be an area established under subsection 1 of section 70 of *The Power Commission Act*, and The Public Utilities Commission of the Township of Scarborough, The Hydro-Electric Commission of the Township of North York and The Hydro-Electric Commission of the Township of Etobicoke shall each be deemed to have been established for the whole of the said respective areas. 1953, c. 73, s. 225 (1), *amended*.



(2) If any of such corporations desire to enter into a contract with The Hydro-Electric Power Commission of Ontario for the supply of electrical power or energy for the use of the municipality and inhabitants thereof, the assent of the municipal electors is not necessary.

(3) Subject to this section and where not inconsistent therewith, Part II of *The Power Commission Act* shall be deemed to apply to each of such commissions and areas. 1953, c. 73, s. 225 (2, 3).

**271.**—(1) The Metropolitan Corporation or the Metropolitan Corporation and one or more area municipalities,

(a) may acquire land for the purposes of constructing municipal buildings; and

(b) may construct municipal buildings for the use of the Metropolitan Corporation or the Metropolitan Corporation and one or more area municipalities.

(2) Section 252 of *The Municipal Act* applies *mutatis mutandis* to any joint undertaking under this section. 1956, c. 53, s. 24, *part*.

**272.**—(1) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of paragraphs 67 and 68 of section 377 of *The Municipal Act*.

(2) The Metropolitan Corporation and The Corporation of the City of Toronto may enter into an agreement to provide for the operation by The Parking Authority of Toronto of any or all of the parking lots of the Metropolitan Corporation or the parking authority established by the Metropolitan Corporation. 1956, c. 53, s. 24, *part*.

**273.** For the purposes of subsection 1 of section 73 of *The Highway Traffic Act*, the Metropolitan Area shall be deemed to be a city. 1959, c. 65, s. 20.

Assent of  
electors  
Application  
of R.S.O. 1960,  
c. 300,  
Part II  
Municipal  
buildings  
Municipal  
parking  
lots  
Agreements  
authorized  
Passing on  
right on  
highways  
in Metro-  
politan  
Area  
R.S.O. 1960,  
c. 172

## FORM 1

(Section 6 (4) )

## OATH OF ALLEGIANCE

I, ....., having been elected (*or appointed*) as chairman of the council of The Municipality of Metropolitan Toronto, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me, etc.

1953, c. 73, Form 1.

## FORM 2

(Section 6 (4) )

## DECLARATION OF QUALIFICATION BY CHAIRMAN

I, ....., having been elected (*or appointed*) as chairman of the council of The Municipality of Metropolitan Toronto, declare that:

1. I am a British subject and am not a citizen or a subject of any foreign country.

2. I am of the full age of twenty-one years.

3. I am not an officer, employee or servant of any area municipality or any local board of any area municipality.

4. I have not by myself or a partner, directly or indirectly, any interest in any contract with or on behalf of The Municipality of Metropolitan Toronto or any local board thereof or any area municipality or local board thereof.

5. I have taken the oath of allegiance (Form 1) which I attach hereto.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me, etc.

1953, c. 73, Form 2.

## CHAPTER 261

### The Negligence Act

**1. In this Act,**

Interpre-  
tation

- (a) "action" includes a counterclaim;
- (b) "defendant" includes a plaintiff against whom a counterclaim is brought;
- (c) "plaintiff" includes a defendant who counterclaims.  
R.S.O. 1950, c. 252, s. 1.

**2.—(1)** Where damages have been caused or contributed to by the fault or neglect of two or more persons, the court shall determine the degree in which each of such persons is at fault or negligent, and, except as provided by subsections 2 and 3, where two or more persons are found at fault or negligent, they are jointly and severally liable to the person suffering loss or damage for such fault or negligence, but as between themselves, in the absence of any contract express or implied, each is liable to make contribution and indemnify each other in the degree in which they are respectively found to be at fault or negligent.

Extent of  
liability,  
remedy  
over

**(2)** In any action brought for any loss or damage resulting from bodily injury to, or the death of any person being carried in, or upon, or entering, or getting on to, or alighting from a motor vehicle other than a vehicle operated in the business of carrying passengers for compensation, and the owner or driver of the motor vehicle that the injured or deceased person was being carried in, or upon or entering, or getting on to, or alighting from is one of the persons found to be at fault or negligent, no damages are, and no contribution or indemnity is, recoverable for the portion of the loss or damage caused by the fault or negligence of such owner or driver, and the portion of the loss or damage so caused by the fault or negligence of such owner or driver shall be determined although such owner or driver is not a party to the action.

Where  
plaintiff is  
passenger

**(3)** In any action founded upon fault or negligence and brought for loss or damage resulting from bodily injury to, or the death of any married person where one of the persons found to be at fault or negligent is the spouse of such married person, no damages are, and no contribution or indemnity is recoverable for the portion of loss or damage caused by the

Where plain-  
tiff is spouse  
of negligent  
person



fault or negligence of such spouse, and the portion of the loss or damage so caused by the fault or negligence of such spouse shall be determined although such spouse is not a party to the action. R.S.O. 1950, c. 252, s. 2.

Recovery  
as between  
tort feorsors

**3.** A tort feorsor may recover contribution or indemnity from any other tort feorsor who is, or would if sued have been, liable in respect of the damage to any person suffering damage as a result of a tort by settling with the person suffering such damage, and thereafter commencing or continuing action against such other tort feorsor, in which event the tort feorsor settling the damage shall satisfy the court that the amount of the settlement was reasonable, and in the event that the court finds the amount of the settlement was excessive it may fix the amount at which the claim should have been settled. R.S.O. 1950, c. 252, s. 3.

Plaintiff  
guilty of  
contributory  
negligence

**4.** In any action for damages that is founded upon the fault or negligence of the defendant if fault or negligence is found on the part of the plaintiff that contributed to the damages, the court shall apportion the damages in proportion to the degree of fault or negligence found against the parties respectively. R.S.O. 1950, c. 252, s. 4.

Where  
parties to  
be deemed  
equally at  
fault

**5.** If it is not practicable to determine the respective degree of fault or negligence as between any parties to an action, such parties shall be deemed to be equally at fault or negligent. R.S.O. 1950, c. 252, s. 5.

Adding  
parties

**6.** Wherever it appears that a person not already a party to an action is or may be wholly or partly responsible for the damages claimed, such person may be added as a party defendant to the action upon such terms as are deemed just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties. 1960, c. 73, s. 1.

Jury to  
determine  
degrees of  
negligence  
of parties

**7.** In any action tried with a jury, the degree of fault or negligence of the respective parties is a question of fact for the jury. R.S.O. 1950, c. 252, s. 7.

When  
plaintiff may  
be liable for  
costs

**8.** Where the damages are occasioned by the fault or negligence of more than one party, the court has power to direct that the plaintiff shall bear some portion of the costs if the circumstances render this just. R.S.O. 1950, c. 252, s. 8.

Limitation  
of actions

**9.** Where an action is commenced against a tort feorsor where a tort feorsor settles with a person who has suffered damage as a result of a tort, within the period of limitation prescribed for the commencement of actions by any relevant

statute, no proceedings for contribution or indemnity against another tortfeasor are defeated by the operation of any statute limiting the time for the commencement of action against such other tortfeasor provided,

- (a) such proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and
  - (b) there has been compliance with any statute requiring notice of claim against such tortfeasor. R.S.O. 1950, c. 252, s. 9.
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## CHAPTER 262

## The Niagara Parks Act

## 1. In this Act,

Interpre-  
tation

- (a) "Commission" means The Niagara Parks Commission, a corporation constituted under *The Queen Victoria Niagara Falls Park Act, 1887*, c. 13 and taking its present name under *The Niagara Parks Act, 1927*; 1927, c. 24
- (b) "Parks" means Queen Victoria Park, Queenston Heights Park, Niagara River Parkways, Butlers' Burying Ground, Drummond Hill Burying Ground and Lundy's Lane Battle Field and Cemetery and all other land heretofore or hereafter vested in or placed under the control of the Commission, including roads and boulevards and any interest in land and land covered with water. R.S.O. 1950, c. 253, s. 1.

2.—(1) The Commission is continued as a corporation with the objects, powers and duties prescribed in this Act. R.S.O. 1950, c. 253, s. 2 (1). Commission  
continued

(2) The Commission shall be composed of not more than eleven members appointed by the Lieutenant Governor in Council, three of whom shall be appointed annually as follows: one the member of the council of the county of Welland who is designated by that council, one the member of the council of the county of Lincoln who is designated by that council and the third the member of the council of the city of Niagara Falls who is designated by that council. 1951, c. 57, s. 1 (1). Composition

(3) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman. R.S.O. 1950, c. 253, s. 2 (3). Chairman

(4) Vacancies in the membership of the Commission may be filled by the Lieutenant Governor in Council, but where the vacancy is in the office of one of the designated members, the person appointed to fill the vacancy shall be the member of the council of the municipality that designated his predecessor, who is designated by that council. R.S.O. 1950, c. 253, s. 2 (4); 1951, c. 57, s. 1 (2). Vacancies

## Compensation

(5) The members of the Commission are not entitled to receive any remuneration or other compensation for their services except their actual expenses.

Members of assembly  
R.S.O. 1960,  
c. 208

(6) Notwithstanding *The Legislative Assembly Act*, any member of the Assembly may be appointed as a member of the Commission and is entitled to act as such without thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly. R.S.O. 1950, c. 253, s. 2 (5, 6).

## General powers and duties

**3.** It is the duty of the Commission to manage, control and develop the Parks and to further these objects the Commission may,

- (a) lay out, plant and enclose the Parks;
- (b) construct and pull down buildings and structures;
- (c) construct and operate incline railways, aerial cars, lifts and works to assist the public in reaching and viewing the points of interest in the Parks;
- (d) construct or acquire by purchase, lease or otherwise and operate bridges over the Niagara River, and for that purpose enter into agreement with any authority having control of the territory beyond the International Boundary required for any such bridge, or enter into agreement for the joint construction and operation by the Commission and such authority of any such bridge;
- (e) construct and operate golf courses, bowling greens and swimming pools;
- (f) construct and operate restaurants, refreshment booths and stands for the sale of souvenirs and other wares;
- (g) construct and maintain toilet and other facilities for the convenience of the public;
- (h) acquire and operate buses and other vehicles for use in connection with the Parks;
- (i) acquire and operate boats for use in connection with the Parks;
- (j) operate a school for the training of apprentice gardeners;
- (k) make agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;

- (l) appoint such auditors, officers, clerks, keepers, gardeners and other persons as may be required;
- (m) receive and take from any person by grant, gift, devise, bequest or otherwise, any property, real or personal, or any interest therein;
- (n) make grants of money and provide services for educational purposes or for any purpose that may serve to publicize or foster interest in the Parks; and
- (o) make such by-laws, rules and orders as may be deemed expedient for the constitution of the Commission and the administration of its affairs and do such other things as may be necessary or advisable to properly exercise its powers and discharge its duties. R.S.O. 1950, c. 253, s. 3.

4.—(1) With the approval of the Lieutenant Governor in Council the Commission may borrow money to meet its indebtedness accruing due, or for purchasing or otherwise acquiring real or personal property, or making improvements, or for any other purpose of the Commission, and may issue bonds, debentures, notes or other securities to provide for the repayment of any moneys so borrowed, and such securities may be payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such interest as the Commission may deem proper. Issue of securities

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for any of the purposes mentioned in subsection 1. R.S.O. 1950, c. 253, s. 4. Guaranteeing securities

5. The Lieutenant Governor in Council may, subject to such conditions as he may deem proper, vest in the Commission any portion of the foreshore or bed of the Niagara River or land covered with water in the Niagara River that lies in front of the Parks and that is the property of the Crown in right of Ontario. R.S.O. 1950, c. 253, s. 5. Foreshore and river bed

6. Subject to the approval of the Lieutenant Governor in Council, the Commission may, Acquisition of land

- (a) acquire by purchase, lease or otherwise;
  - (b) without the consent of the owner, enter upon, take and expropriate; and
  - (c) sell or otherwise dispose of,
- any land or any interest in land. R.S.O. 1950, c. 253, s. 6.



Expropria-  
tion  
R.S.O. 1960,  
c. 338

7.—(1) The Commission in the exercise of its powers to take land compulsorily has all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act they mean, where the context permits, the Commission.

Procedure

(2) The Commission shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works enters upon, takes or uses land or property for the use of Ontario and all the provisions of that Act apply *mutatis mutandis*.

Mode of  
perfecting  
title

(3) Upon the deposit in the proper registry or land titles office of a plan and description of the land acquired by the Commission, signed by the chairman of the Commission and by an Ontario land surveyor, the land so described thereupon vests in the Commission. R.S.O. 1950, c. 253, s. 7.

Highways

8.—(1) Notwithstanding any general or special Act, the Lieutenant Governor in Council may vest any highway in any municipality in the Commission and thereafter the Commission has exclusive jurisdiction over it.

Idem

(2) The Commission and the corporation of any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefore or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof.

Compensa-  
tion payable  
by municipa-  
lity

(3) Every agreement entered into under subsection 2 shall provide that the cost of any lands acquired pursuant thereto and all compensation payable in respect of such acquisition or for injurious affection to lands by reason of any work undertaken under any such agreement shall be borne and paid solely by the corporation of the municipality entering into the agreement. R.S.O. 1950, c. 253, s. 8.

Controlled  
access  
highways

9.—(1) The Lieutenant Governor in Council may designate any portion of any of the highways, roads, boulevards or parkways of the Commission as a controlled access highway.

Regulations

(2) The Lieutenant Governor in Council may, in respect of any portion of any such highway, road, boulevard or parkway so designated, make any regulation that he may make in respect of controlled access highways under *The Highway Improvement Act*. R.S.O. 1950, c. 253, s. 9.

R.S.O. 1960,  
c. 171

**10.**—(1) The Commission may enter into agreement with the corporation of any municipality that adjoins or is within three miles of the lands of the Commission as to any work of any of the characters or descriptions mentioned in *The Local Improvement Act*, and the Commission may agree to contribute any sum towards the cost of any work undertaken, either in cash or by annual or other instalments or otherwise, but the Commission is not liable in any way for assessment under *The Local Improvement Act*, for the cost of any such work, whether the lands abut directly on the work or otherwise, and the lands remain exempt from assessment and taxation.

Local  
Improve-  
ment works

R.S.O. 1960,  
c. 223

(2) It is not necessary to submit any agreement entered into under this section for the assent of the electors of the municipality, nor is it necessary to receive the assent of the electors of the municipality for the issue of debentures to defray the cost of the work undertaken under any such agreement. R.S.O. 1950, c. 253, s. 10.

Assent of  
electors not  
required

**11.** *The Public Vehicles Act* applies to the highways and public places of the Commission except that as to such highways and public places the Commission shall be deemed to be substituted for the Department of Highways and for the Lieutenant Governor in Council, and the licence fees and tolls and the penalties imposed under that Act shall be payable to the Commission. R.S.O. 1950, c. 253, s. 11.

Application  
of R.S.O.  
1960, c. 337

**12.**—(1) Subject to any order of the Lieutenant Governor in Council, the Commission may continue to collect the revenues and rentals payable or collectable under the several agreements made between the Commission and the Canadian Niagara Power Company, Limited, the Ontario Power Company, the Electrical Development Company of Ontario, Limited and The Hydro-Electric Power Commission of Ontario.

Collection  
of water  
revenues  
and rentals

(2) The Commission, with the approval of the Lieutenant Governor in Council, may,

Agreements  
with com-  
panies as to  
developing  
power

- (a) enter into agreement with any person to take water from the Niagara River or from the Niagara and Welland Rivers, at points within the Parks, for the purpose of enabling such person to generate power within the Parks, and to conduct and discharge the water through and across the Parks or otherwise in such manner, for such rental, and upon such terms and conditions as may be embodied in the agreement, and any such agreement may include provisions as to the removal or demolition of any

buildings or structures and the re-erection of the same, or the erection of other buildings or structures; and

(b) renegotiate any existing agreement for the development of power from the Niagara River.

Confirma-  
tion of  
agreement

(3) No agreement entered into or renegotiated under subsection 2 becomes operative until it is confirmed by resolution of the Assembly. R.S.O. 1950, c. 253, s. 12.

Bridges over  
Niagara  
River

**13.** With the approval of the Lieutenant Governor in Council, the Commission, upon terms to be agreed upon, may grant any rights over or in respect of lands of the Commission that may be required for the purpose of building any new bridge over the Niagara River or of confirming the present occupation of land by any presently existing bridge company, but nothing in this section authorizes the granting of any such rights over or in respect of Queen Victoria Park. R.S.O. 1950, c. 253, s. 13.

Application  
of revenue

**14.—(1)** All moneys received by the Commission shall be applied in the discharge of its duties and obligations.

Surplus  
money

(2) Any surplus moneys shall, on the order of the Lieutenant Governor in Council, be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 253, s. 14.

Books of  
account

**15.** The Commission shall cause books to be kept and true and regular accounts to be entered therein of all moneys received and paid and of the several purposes for which the same were received and paid, and such books shall be open to the inspection of any member of the Commission, the Treasurer of Ontario or any person appointed by the Commission or Treasurer for that purpose, and any such person may make copies of or take extracts from the books. R.S.O. 1950, c. 253, s. 15.

Security  
by officers

**16.** Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by *The Public Officers Act*. R.S.O. 1950, c. 253, s. 16.

R.S.O. 1960,  
c. 326

Audit

**17.** The books and records of the Commission shall be examined annually by the Provincial Auditor or such other auditor as may be designated by the Lieutenant Governor in Council. R.S.O. 1950, c. 253, s. 17.



**18.**—(1) The Commission shall after the close of each <sup>Annual report</sup> fiscal year of the Commission file with the Provincial Secretary an annual report setting forth the revenue and expenditure of the year as shown by the audited statement and such other matters as may appear to be of public interest in relation to the Parks or as the Lieutenant Governor in Council may direct.

(2) The Provincial Secretary shall submit the report to <sup>to be laid before</sup> the Lieutenant Governor in Council and shall then lay the <sup>Assembly</sup> report before the Assembly, if it is in session, or if not, at the next ensuing session. R.S.O. 1950, c. 253, s. 18.

**19.**—(1) The Commission, with the approval of the <sup>Regulations</sup> Lieutenant Governor in Council, may make regulations,

- (a) regulating and governing the use by the public of the Parks and the works, vehicles, boats, services and things under the jurisdiction of the Commission;
- (b) providing for the protection and preservation from damage of the property of the Commission;
- (c) prescribing tolls for the occupation and use of Park lands and works, vehicles, boats, golf courses, bowling greens, swimming pools and services under the jurisdiction of the Commission, for opening and closing graves or any class thereof in any cemetery in the Parks, and for entrance to places of historical and scenic interest or any other occupation or uses of a similar nature;
- (d) prescribing permits designating privileges in connection with the use of the Parks or any part thereof and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic in the Parks or any part thereof and prohibiting the use of any class or classes of vehicles in the Parks or any part thereof;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks or within one-quarter mile of any part thereof;
- (g) licensing, regulating and governing taxi-cabs and other vehicles for hire and the owners and drivers thereof, and prescribing fees for such licences;
- (h) licensing, regulating and governing guides and prescribing fees for such licences;

(i) prescribing terms and conditions under which horses, dogs and other animals may be allowed in the Parks or any part thereof;

(j) for imposing fines not exceeding \$100 for any breach of any regulation.

**Offences**

R.S.O. 1960,  
c. 387

(2) Any offence against any regulation made under this Act is punishable under *The Summary Convictions Act* and the fines for any such offence are payable to the Commission. R.S.O. 1950, c. 253, s. 19.

**Rights of  
interment  
not affected**

**20.** Nothing in this Act authorizes the interference with any right to inter the body of any deceased person in any burying ground vested in the Commission and nothing in this Act confers the right to remove any body there interred. R.S.O. 1950, c. 253, s. 20.

## CHAPTER 263

## The Notaries Act

**1.** Subject to section 5, the Lieutenant Governor may by <sup>Appointment</sup> commission appoint such persons as he thinks fit as notaries public for Ontario. R.S.O. 1950, c. 254, s. 1.

**2.** A notary shall during pleasure have, use and exercise <sup>Powers</sup> the power of drawing, passing, keeping and issuing all deeds and contracts, charterparties and other mercantile transactions in Ontario, and also of attesting all commercial instruments that may be brought before him for public protestation, and otherwise of acting as is usual in the office of notary, and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the calling of a notary public. R.S.O. 1950, c. 254, s. 2.

**3.** A notary public is *ex officio* a commissioner for taking <sup>Power to take affidavits</sup> affidavits in Ontario. R.S.O. 1950, c. 254, s. 3.

**4.** A notary public shall be deemed to be an officer of the <sup>Officers of court</sup> Supreme Court. R.S.O. 1950, c. 254, s. 4.

**5.**—(1) Any person, other than a barrister or solicitor, <sup>Examination</sup> desirous of being appointed a notary public, is subject to examination in regard to his qualification for the office by the judge of the county or district court of the county or district in which he resides, or by such other person as may be appointed in that behalf by the Lieutenant Governor, and no such person shall be appointed a notary public without a certificate from such judge, or such other person, that he has examined the applicant and finds him qualified for the office, and that in his opinion a notary public is needed for the public convenience in the place where the applicant resides and intends to carry on business.

(2) The Lieutenant Governor in Council may make regula- <sup>Idem</sup> tions for such examination and certificate, and the judge or other person examining is entitled to receive from the person examined a fee of \$5 for the examination. R.S.O. 1950, c. 254, s. 5.

**6.** Where a person, other than a barrister or solicitor, is <sup>Restrictions in case of lay appointees</sup> appointed a notary public, restrictions may be imposed in the commission limiting the territory and cases in which such person may use and exercise his powers. R.S.O. 1950, c. 254, s. 6.



Notary  
public need  
not affix seal  
on affidavits,  
etc.

**7.** Where, under the authority of any Act of Ontario, a notary public is authorized to administer oaths or to take affidavits or declarations in Ontario, it is not necessary to the validity of any such oath, affidavit or declaration that he shall affix his seal thereto. R.S.O. 1950, c. 254, s. 7.

Revocation  
of appoint-  
ment in cer-  
tain cases

**8.** The disbarment of a barrister or the striking off the roll of a solicitor who holds an appointment as a notary public has the effect of revoking such appointment. R.S.O. 1950, c. 254, s. 8.

## CHAPTER 264

**The Nurses Registration Act****1.** In this Act,Interpre-  
tation

- (a) "Board" means the Board of Directors of the Registered Nurses' Association of Ontario, a corporation without share capital incorporated by letters patent on the 4th day of December 1925, and includes a duly authorized committee of the Board;
- (b) "Minister" means the Minister of Health;
- (c) "registered nurse" means a person registered as such under this Act. 1951, c. 58, s. 1.

**2.** The Minister is a member *ex officio* of the Board. 1951, c. 58, s. 2.

Minister  
member of  
Board

**3.** The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

Additional  
powers of  
Board

- (a) prescribing the requirements for admission to schools of nursing and the courses of instruction therein;
- (b) providing for the holding of examinations for nurses who are in attendance at or graduates of schools of nursing;
- (c) governing the registration of graduates of schools of nursing located within or without Ontario and the issue, suspension, cancellation and renewal of certificates of registration of nurses;
- (d) prescribing the fees for examinations, registration and renewal of registration of nurses. 1951, c. 58, s. 3.

**4.** The Board shall maintain a register in which shall be entered the name, address and qualifications of every person registered in Ontario as a registered nurse. 1951, c. 58, s. 4.

Registra-  
tion of  
nurses

**5.—(1)** If the Board refuses or neglects to register a person, appeals or neglects to renew the registration of a person or suspends or cancels the registration of a person, the person aggrieved may, within three months from the day on which notice thereof was served, apply to a judge of the Supreme

Court who upon due cause shown may make an order directing the Board to make the registration, renew the registration, remove the suspension, or withdraw the cancellation, as the case may be, or may make such other order as may be warranted by the facts.

Effect of  
order

(2) Every such order is final and conclusive and shall be acted upon forthwith by the Board. 1951, c. 58, s. 5.

Offence

**6.** Every person, not being registered as a nurse under this Act, who uses the title "Registered Nurse" either alone or in combination with any word or words, or who uses any name, title or description implying that he or she is registered as a nurse under this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1951, c. 58, s. 6.



## CHAPTER 265

## The Nursing Act

## 1. In this Act,

Interpre-  
tation

- (a) "certified nursing assistant" means a person who is registered as a certified nursing assistant under this Act;
- (b) "Director" means the Director of Nursing;
- (c) "Minister" means the Minister of Health;
- (d) "nurses' registry" means the business of procuring a person for employment in nursing or procuring employment in nursing for a person;
- (e) "regulations" means the regulations made under this Act. 1951, c. 59, s. 1; 1957, c. 82, s. 1.

2. There shall be a Director of Nursing who shall be appointed by the Lieutenant Governor in Council and who shall exercise such powers and perform such duties as may be conferred or imposed by this Act, the regulations or the Minister. 1951, c. 59, s. 2.

Director of  
Nursing

3.—(1) The Director may issue to any person a licence to carry on a nurses' registry.

Director  
may issue  
licences  
to nurses'  
registries

(2) The licence remains in force until the 1st day of July in the year next following that in which it is issued.

Term of  
licence

(3) The licence shall state the address at which the business is to be carried on.

Licence to  
state  
business  
address

(4) Where a nurses' registry is carried on by means of offices, branches or agencies in different local municipalities, a separate licence shall be required and a separate fee shall be payable in respect thereof for each local municipality.

Branches,  
etc.

(5) Every person who carries on a nurses' registry without a licence or licences, as the case may be, under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. 1957, c. 82, s. 2.

Offence

Schools of  
nursing;  
training  
courses

**4.—(1)** A school of nursing or a training course for nursing assistants may be established, maintained and conducted in any hospital, sanatorium, sanitarium or university.

Compliance  
with Act  
required

**(2)** Every person who establishes, maintains or conducts a school of nursing or a training course for nursing assistants, or trains or instructs, or holds himself out as being able or willing to train or instruct persons to become nurses or nursing assistants contrary to this Act or the regulations, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. 1951, c. 59, s. 3.

Regulations

**5.** The Lieutenant Governor in Council may make regulations respecting the establishment, maintenance and management of schools of nursing and training courses for nursing assistants and providing for the inspection thereof. 1951, c. 59, s. 4.

Idem

**6.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the requirements for admission to training courses for nursing assistants;
- (b) providing for the holding of examinations for nursing assistants who are in attendance at or graduates of training courses for nursing assistants;
- (c) governing the registration of graduates of training courses for nursing assistants located within or without Ontario and the issue, suspension, cancellation and renewal of certificates of registration of nursing assistants;
- (d) governing the registration of persons as certified nursing assistants who have received training in nursing outside Ontario with or without examination;
- (e) prescribing the fees for examinations, registration and renewal of registration of nursing assistants;
- (f) governing and regulating the establishment and operation of nurses' registries and providing for the inspection and supervision thereof;
- (g) licensing nurses' registries and prescribing the terms and conditions upon which a licence may be issued and the form and term thereof and the terms and conditions upon which any such licence may be renewed, suspended or revoked;
- (h) exempting any nurses' registry or class of nurses' registry from section 3. 1951, c. 59, s. 5; 1957, c. 82, s. 3.

**7.** The Director shall maintain a register in which shall be entered the name, address and qualifications of every person registered in Ontario as a certified nursing assistant. 1951, c. 59, s. 6. <sup>Registration of nursing assistants</sup>

**8.** Every person, not being registered as a nursing assistant under this Act, who uses the title "Certified Nursing Assistant" either alone or in combination with any word or words, or who uses any name, title or description implying that he or she is registered as a nursing assistant under this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1951, c. 59, s. 7. <sup>Offence</sup>

**9.** The Lieutenant Governor in Council may make regulations providing for the establishment of a council to be known as the "Council of Nursing" and prescribing its powers and duties. 1951, c. 59, s. 8. <sup>Council of Nursing</sup>

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## CHAPTER 266

## The Official Notices Publication Act

1. *The Ontario Gazette*, being the official notices publication of Ontario authorized by chapter 6 of the Statutes of Ontario, <sup>*The Ontario Gazette* authorized</sup> 1868, shall be published by the Queen's Printer at the times and in the form and style now established or at such times or in such form and style as the Lieutenant Governor in Council may order. R.S.O. 1950, c. 257, s. 1.

2. Unless another mode of publication is authorized by law, <sup>Notices, etc., to be published</sup> there shall be published in *The Ontario Gazette*,

- (a) all proclamations issued by the Lieutenant Governor;
- (b) all notices, orders, regulations and other documents relating to matters within the authority of the Legislature that require publication; and
- (c) all advertisements, notices and publications that are required to be given by the Crown or by any department of the Government of Ontario, or by any public authority, or by any officer or person. R.S.O. 1950, c. 257, s. 2.

3. If in any Act of the late Province of Upper Canada or of the late Province of Canada in force in Ontario and being within the authority of the Legislature any notice is directed to be given in the *Upper Canada Gazette* or in the *Canada Gazette*, the same shall be given in *The Ontario Gazette*. <sup>Notices published under Acts of Upper Canada or Canada</sup> R.S.O. 1950, c. 257, s. 3.

4. The Lieutenant Governor in Council may make regulations, <sup>Regulations</sup>

- (a) prescribing the rates that shall be paid for publication of matters in *The Ontario Gazette* and prescribing the time and manner of payment of such rates;
  - (b) prescribing the rates that shall be paid by subscribers to *The Ontario Gazette* and by others for copies thereof and prescribing the time and manner of payment of such rates. R.S.O. 1950, c. 257, s. 4.
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## CHAPTER 267

## The Old Age Assistance Act

## 1. In this Act,

Interpre-  
tation

- (a) "assistance" means old age assistance provided under this Act and the regulations to the persons and under the conditions specified in any agreement made under section 2;
- (b) "Director" means the Director of the Welfare Allowances Branch of the Department of Public Welfare;
- (c) "investigator" means a person designated as such under the regulations and includes a field worker of the Department of Public Welfare;
- (d) "local authority" means a field worker, regional welfare administrator of the Department of Public Welfare or any other employee of the Department of Public Welfare the Minister designates under this Act;
- (e) "Minister" means the Minister of Public Welfare;
- (f) "recipient" means a person to whom assistance is granted;
- (g) "regulations" means the regulations made under this Act. 1951 (2nd. Sess.), c. 2, s. 1; 1957, c. 83, s. 1; 1958, c. 69, s. 1.

2.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada to provide for payment by Canada to Ontario in accordance with the *Old Age Assistance Act* (Canada) and the regulations made under it and with any additional conditions of eligibility prescribed in the regulations made under this Act of any portion of amounts of assistance paid by Ontario pursuant to this Act and the regulations. 1957, c. 83, s. 2, *part*; 1958, c. 69, s. 2.

Agreements  
with Canada  
authorized  
R.S.C. 1952,  
c. 199

(2) Assistance may be paid in accordance with any agreement made under subsection 1. 1957, c. 83, s. 2, *part*.

Payment  
authorized

3.—(1) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such civil servant as the Minister may designate.

Acting  
Director

**Director,  
duties**

(2) It is the duty of the Director,

(a) to receive applications for assistance;

(b) to determine the eligibility of each applicant for assistance, and where the applicant is eligible, to determine the amount thereof and to direct payment accordingly. 1951 (2nd Sess.), c. 2, s. 3 (2, 3).

**Assistance  
exempt from  
taxation**

**4.**—(1) Assistance is exempt from provincial and municipal taxes.

**Assistance  
not assign-  
able**

(2) Assistance is not subject to alienation or transfer by the recipient.

**Assistance  
not subject  
to seizure**

(3) Assistance is not subject to attachment or seizure in satisfaction of any claim against the recipient. 1951 (2nd Sess.), c. 2, s. 4.

**Voting  
rights**

**5.** The receipt of assistance does not by itself constitute a disqualification of the recipient from voting at any provincial or municipal election. 1951 (2nd Sess.), c. 2, s. 5.

**When an  
allowance  
may be  
paid to a  
trustee**

**6.**—(1) In the case of a recipient,

(a) for whom a committee or trustee is acting; or

(b) who, in the opinion of the Director, is using or is likely to use the assistance otherwise than for his own benefit, or is incapacitated or is incapable of handling his affairs,

the Director may appoint a person to act for the recipient and the assistance may be paid for the benefit of the recipient to the committee or trustee mentioned in clause *a* or to the person appointed under clause *b*.

**Compensa-  
tion**

(2) A person acting for a recipient under subsection 1 is not entitled to any fee or other compensation or reward or to any reimbursement for any costs or expenses incurred by him. 1955, c. 51, s. 2.

**Refusal of  
Canada to  
contribute**

**7.** Where assistance has been paid and the Government of Canada,

(a) refuses to pay any amount in respect thereof;

(b) rules that overpayments have been made to the recipient,

the Lieutenant Governor in Council may direct that all payments that at that time have been made shall be deemed

to be expenses incurred in the administration of this Act. 1951 (2nd Sess.), c. 2, s. 7.

**8.** If for any reason the Government of Canada ceases to make the contributions provided for under *The Old Age Assistance Act* (Canada) or fails to carry out the agreement made under the authority of this Act, all assistance under this Act shall thereafter cease and no further payments of assistance shall be made. 1951 (2nd Sess.), c. 2, s. 8.

When payment of assistance to cease R.S.C. 1952, c. 199

**9.** Every local authority is, in the performance of his duties, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1951 (2nd Sess.), c. 2, s. 9 (2).

Local authorities commissioners under R.S.O. 1960, c. 59

**10.** Assistance and the expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. 1951 (2nd Sess.), c. 2, s. 10 (1).

Funds for purposes of Act

**11.**—(1) No person shall knowingly obtain or receive assistance that he is not entitled to obtain or receive under this Act and the regulations.

Offences and penalties

(2) No person shall knowingly aid or abet another person to obtain or receive assistance that such other person is not entitled to obtain or receive under this Act and the regulations.

Idem

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than three months or to both fine and imprisonment. 1951 (2nd Sess.), c. 2, s. 11.

Idem

**12.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) governing the manner of making application for assistance;
- (b) prescribing conditions of eligibility for assistance that may be included in an agreement made under section 2;
- (c) providing for the suspension and cancellation of assistance;
- (d) providing for the whole or part of the cost of providing medical and dental services to recipients or any class or group thereof;



- (e) providing for the designation of persons as investigators and prescribing their powers and duties;
  - (f) prescribing the powers and duties of local authorities;
  - (g) providing for the making of investigations respecting persons to whom assistance may be paid or by whom or on whose behalf application has been made for assistance or who are in receipt of assistance;
  - (h) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before assistance is paid;
  - (i) fixing the intervals at which and the manner in which assistance is to be paid;
  - (j) prescribing forms and providing for their use;
  - (k) respecting any matter necessary or advisable to carry out effectively the purposes of this Act. 1951 (2nd Sess.), c. 2, s. 12; 1957, c. 83, s. 4; 1958, c. 69, s. 4.
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## CHAPTER 268

## The Oleomargarine Act

## 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Agriculture;
- (b) "oleomargarine" means any food substance other than butter, of whatever origin, source or composition that is prepared for the same uses as butter and that is manufactured wholly or in part from any fat or oil other than that of milk;
- (c) "package" means any wrapper, carton, box, tub, crock, crate or any other covering or container;
- (d) "public eating place" means any place where food or drink is offered for sale to the public for consumption on the premises and includes an hotel, inn, restaurant, public conveyance, victualling house and lunch counter;
- (e) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 259, s. 1; 1951, c. 61, s. 1.

## 2. Every keeper of a public eating place where oleomargarine is served as such shall,

Oleomar-  
garine  
served in  
public  
eating  
places

- (a) where a menu is used, cause to be displayed thereon in a conspicuous manner the words "Oleomargarine is served here";
- (b) where a menu is not used, cause to have displayed in a conspicuous manner in each room or place where food is served a sign or placard bearing the words "Oleomargarine is served here" in letters large enough to be distinctly seen from all parts of each room or place. R.S.O. 1950, c. 259, s. 2.

## 3. No person shall mix oleomargarine with butter for purposes of sale or for use in any public eating place. R.S.O. 1950, c. 259, s. 3.

Mixing  
oleomar-  
garine and  
butter  
prohibited

## 4. No oleomargarine shall have a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, measured in terms of the Lovibond tintometer scale read under conditions substantially similar to

Colouring

those established by the United States Bureau of Internal Revenue, or the equivalent of such measurement. R.S.O. 1950, c. 259, s. 4.

**Packaging**

**5.** Every package containing oleomargarine shall have legibly marked thereon in addition to anything required under any Act of the Parliament of Canada or of this Legislature,

- (a) the word "oleomargarine" or the trade name of the contents; and
- (b) a list of the ingredients in the oleomargarine and the percentage of each such ingredient. R.S.O. 1950, c. 259, s. 5.

**Licence to manufacture or sell by wholesale****Unlawful manufacture, etc.**

**6.—**(1) No person shall manufacture or sell by wholesale oleomargarine without a licence therefor from the Minister.

(2) No person shall manufacture, sell, offer for sale, have in his possession for sale or serve in any public eating place any oleomargarine that does not comply with the provisions of this Act or the regulations. R.S.O. 1950, c. 259, s. 6.

**Misleading advertising**

**7.—**(1) No person shall make a misleading claim with respect to oleomargarine, either by word or design, in an advertisement or on a package in which oleomargarine is contained.

**Reference to dairy product in advertisement**

(2) No advertisement respecting oleomargarine and no package containing oleomargarine,

- (a) shall state or imply that oleomargarine has a relation to any dairy product; or
- (b) shall depict a dairy scene. 1951, c. 61, s. 2, *part*.

**Inspectors and analysts**

**8.—**(1) The Lieutenant Governor in Council may appoint such inspectors and analysts as he may deem necessary for the administration and enforcement of this Act and the regulations.

**Obstruction of inspectors**

(2) No person shall obstruct any inspector in the performance of his duties or furnish any inspector with false information. 1951, c. 61, s. 2, *part*.

**Regulations**

**9.** The Lieutenant Governor in Council may make regulations,

- (a) providing for the issue of licences to manufacturers and wholesalers of oleomargarine and prescribing the form, term and conditions thereof and the fees to be paid therefor, and providing for the transfer, renewal, suspension or cancellation thereof;



- (b) prescribing standards of quality for and the composition of oleomargarine;
- (c) providing for the detention and confiscation of oleomargarine that does not comply with the provisions of this Act and the regulations;
- (d) prescribing the powers and duties of inspectors;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 259, s. 7; 1951, c. 61, s. 3.

**10.** Every person who contravenes any provision of this Act or any regulation is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for not more than six months, or to both. R.S.O. 1950, c. 259, s. 8.

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## CHAPTER 269

## The One Day's Rest in Seven Act

**1.** This Act is in force in every city and in every town <sup>Application</sup> having a population of 10,000 or over. R.S.O. 1950, c. 260, s. 1. <sup>of Act</sup>

**2.** Except as hereinafter mentioned, every employer of <sup>24 hours</sup> labour, whether a person, partnership or corporation engaged <sup>rest in every</sup> in carrying on any hotel business, restaurant or cafe shall <sup>week</sup> allow every person, employed in any such hotel business, restaurant or cafe at least twenty-four consecutive hours of rest in every seven days, and wherever possible such twenty-four consecutive hours shall be on a Sunday. R.S.O. 1950, c. 260, s. 2.

**3.** Section 2 does not apply to,

Exceptions

- (a) watchmen, janitors, superintendents or foremen;
- (b) employees who are not employed for more than five hours in any one day,

but nothing in this Act authorizes any work on Sundays now prohibited by law. R.S.O. 1950, c. 260, s. 3.

**4.** Every employer who contravenes this Act is guilty of an <sup>Offence</sup> offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 260, s. 4.

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## CHAPTER 270

# The Ontario Anti-Discrimination Commission Act

**1.** In this Act,Interpre-  
tation

- (a) "Commission" means The Ontario Anti-Discrimination Commission;
- (b) "Minister" means the Minister of Labour. 1958, c. 70, s. 1.

**2.**—(1) The Ontario Anti-Discrimination Commission is hereby continued. Commission  
continued

(2) The Commission shall be composed of three or more members who shall be appointed by the Lieutenant Governor in Council. Composition

(3) The Lieutenant Governor in Council may designate one of the members as chairman. Chairman

(4) The Lieutenant Governor in Council may fill any vacancy in the membership of the Commission. Vacancies

(5) The Lieutenant Governor in Council may fix the remuneration of the members of the Commission. 1958, c. 70, s. 2, *amended*. Remunera-  
tion

**3.** It is the function of the Commission,

Function

- (a) to advise the Minister in the administration of *The Fair Employment Practices Act, The Female Employees' Fair Remuneration Act and The Fair Accommodation Practices Act*; R.S.O. 1960,  
cc. 132, 139,  
131
- (b) to make recommendations to the Minister designed to improve the administration of the Acts mentioned in clause *a*; and
- (c) to develop and conduct an educational programme designed to give the public knowledge of the Acts mentioned in clause *a* and to promote the elimination of discriminatory practices. 1958, c. 70, s. 3.

**4.** The Lieutenant Governor in Council may appoint a staff secretary and such other officers, clerks and servants of the Commission as may be deemed appropriate. 1958, c. 70, s. 4.

## Cost

**5.** The cost of the administration of this Act is payable out of the moneys appropriated therefor by the Legislature. 1958, c. 70, s. 5, *amended*.

## Regulations

**6.** The Lieutenant Governor in Council may make regulations,

- (a) fixing the number of members of the Commission at a number greater than three;
  - (b) adding to or extending the functions of the Commission;
  - (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1958, c. 70, s. 6.
-



## CHAPTER 271

## The Ontario Energy Board Act

1. The interpretation section of *The Energy Act* applies to this Act. 1960, c. 75, s. 1.

Interpre-  
tation  
R.S.O. 1960,  
c. 122

## PART I

## THE BOARD

2.—(1) There shall be a board known as the Ontario Energy Board which shall consist of not less than three and not more than five commissioners as the Lieutenant Governor in Council may from time to time determine.

Board  
established

(2) The commissioners shall be appointed by the Lieutenant Governor in Council and one of them shall be designated as chairman. 1960, c. 75, s. 2.

Appoint-  
ment

3. Vacancies in the membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. 1960, c. 75, s. 3.

Vacancies

4. Two members of the Board form a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board notwithstanding that a vacancy in the membership of the Board exists or that a member is absent or unable to act. 1960, c. 75, s. 4.

Quorum

5. Every member of the Board and its secretary has, for the purposes of this Act and every other Act under which the Board functions, the same powers as a commissioner for taking affidavits in Ontario. 1960, c. 75, s. 5.

Power to  
administer  
oaths

6.—(1) The Lieutenant Governor in Council may appoint a secretary of the Board and such assistant secretaries as are deemed necessary.

Secretary

(2) The Lieutenant Governor in Council may designate a member of the Board as secretary.

Commis-  
sioner as  
secretary

(3) Where the office of secretary is vacant or in his absence or inability to act, the Board may designate any assistant secretary or any commissioner to act *pro tempore* in the place of the secretary.

Acting  
secretary

Staff of  
Board

(4) The staff of the Board shall consist of such officers and employees as are deemed necessary. 1960, c. 75, s. 6.

Protection  
from being  
called as  
witnesses

**7.**—(1) Neither the members of the Board nor its secretary nor any of its staff shall be required to give testimony in any proceeding with regard to information obtained by him in the discharge of his official duties.

Protection  
from  
personal  
liability

(2) Neither the members of the Board nor any of its staff are personally liable for anything done by it or by him under the authority of this or any other Act. 1960, c. 75, s. 7.

Certified  
copies

**8.** Upon application of any person and upon payment of the prescribed fee, the secretary shall deliver to such person a certified copy of any order, rule or other document made by the Board. 1960, c. 75, s. 8.

Assistance

**9.** The Lieutenant Governor in Council may appoint from time to time one or more persons having technical or special knowledge of any matter in question to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it. 1960, c. 75, s. 9.

Money

**10.** The moneys required for the purposes of the Board shall be paid out of the moneys that are appropriated therefor by the Legislature. 1960, c. 75, s. 10.

Seal

**11.**—(1) The Board shall adopt an official seal.

Signing of  
orders

(2) All orders made by the Board shall be signed by the secretary or an assistant secretary or the chairman and sealed with the seal of the Board and, when purporting to be so signed and sealed, shall be judicially noticed without further proof.

R.S.O. 1960,  
c. 349 not  
to apply

(3) *The Regulations Act* does not apply to the orders of the Board. 1960, c. 75, s. 11.

Power to  
determine  
law and  
fact

**12.**—(1) The Board has as to all matters within its jurisdiction authority to hear and determine all questions of law and of fact and in all matters under this or any other Act shall proceed by order.

Jurisdiction  
exclusive

(2) The Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this or any other Act. 1960, c. 75, s. 12.

Powers of  
Supreme  
Court  
exercisable  
by Board

**13.** The Board for the due exercise of its jurisdiction and powers and otherwise for carrying into effect this or any other Act has all such powers, rights and privileges as are vested in the Supreme Court with respect to the amendment

of proceedings, addition or substitution of parties, attendance and examination of witnesses, production and inspection of documents, entry on and inspection of property, enforcement of its orders and all other matters necessary or proper therefor. 1960, c. 75, s. 13.

**14.—**(1) Subject to subsection 4 of section 17, the Board shall not make any order under this or any other Act until it has held a hearing upon notice in such manner and to such persons as the Board directs. Hearings

(2) Hearings before the Board shall be open to the public. Idem

(3) The Board may hear any application or deal with any matter at any place in Ontario that it appoints. Place of hearing

(4) The Board may adjourn any hearing from time to time and may make interim orders pending the final disposition of the matter before it. Adjournments and interim orders

(5) The Board in making an order may impose such terms and conditions as it deems proper and an order may be general or particular in its application. Terms and conditions

(6) The Board shall prepare written reasons for its decisions which shall be kept by the secretary and made available to any person upon the payment of the prescribed fee. Written reasons

(7) No issue of fact, which has been judicially determined by the Board in any application under section 17, may be put in issue in any subsequent application before the Board unless it can be established that a factor material to such determination has materially changed or that there is a party to the subsequent application who has a substantial interest in such determination but who had no notice of the proceedings at which such issue of fact was judicially determined. 1960, c. 75, s. 14. Facts previously determined

**15.—**(1) A certified copy of any order made by the Board may be filed in the office of the Registrar of the Supreme Court and thereupon is enforceable as a judgment of the Supreme Court to the same effect. Enforcement of orders

(2) Any order so filed may be rescinded or varied by the Board at any time in the manner provided in section 24. Effect of filing

(3) An order of the Board requiring a person to pay money to the Board, to any party to a proceeding before the Board or to any other person, as costs or otherwise, may be enforced by a written direction from the Board to the sheriff of any county or district endorsed upon or annexed to a certified copy of the order. Direction to sheriff



Effect of  
direction

(4) The sheriff receiving such a direction shall levy the amount named therein with his costs and expenses in like manner and with the same power as if the endorsed order were an execution issued out of the Supreme Court against the goods of the person named in the order and the order so endorsed constitutes a lien and charge upon the property, real or personal, or the interest therein of the person named in the order that is situate in such county or district to the same extent and in the same manner as the property would be bound by the filing with the sheriff of an execution issued after judgment in the Supreme Court.

Land titles

(5) Where the person named in any such order holds lands or any interest therein that is registered in a land titles office, the Board may register a certified copy of the order with the proper master of titles and, when so registered, it constitutes a lien and charge upon the land to the same extent and in the same manner as an execution issued after judgment in the Supreme Court and registered with the proper master of titles.

Idem

(6) The amount ordered to be paid by any order registered under subsection 5 may be realized in the same manner and by the same proceedings *mutatis mutandis* as the amount of any registered execution of the Supreme Court. 1960, c. 75, s. 15.

Obedience  
to orders  
of Board  
a good  
defence

**16.** An order of the Board is a good and sufficient defence to any action or other proceeding brought or taken against any person in so far as the act or omission that is the subject of such action or other proceeding is in accordance with the order. 1960, c. 75, s. 16.

Rates

**17.—(1)** Subject to the regulations, the Board may make orders approving or fixing just and reasonable rates and other charges for the sale of gas by transmitters, distributors and storage companies, and for the transmission, distribution and storage of gas.

Idem

(2) Subject to the regulations, no transmitter, distributor or storage company shall sell gas or charge for the transmission, distribution or storage of gas except in accordance with an order of the Board which shall not be bound by the terms of any contract entered into prior to the day upon which this Act comes into force.

Idem

(3) The Board shall not make any order approving rates of any gas transmitter, distributor or storage company greater than those which the transmitter, distributor or storage company desires to charge.

Idem

(4) The Board may, at the request of any gas transmitter, distributor or storage company, without a hearing, make an

order under subsection 1 decreasing the rates charged by such gas transmitter, distributor or storage company, effective for a period of not more than one year pending a hearing, provided that such hearing is finally disposed of within one year of the order decreasing rates. 1960, c. 75, s. 17.

**18.** Where the rates and other charges are those to be paid to a public-owned distributor and the Ontario Municipal Board has made an order with respect thereto, the Board shall have regard to such order. 1960, c. 75, s. 18.

**19.—(1)** The Board may authorize,

- (a) a person to inject gas into, store gas in and remove gas from a designated gas storage area; and
- (b) such person to enter into and upon the land in such area and use such land for the purposes mentioned in clause a.

(2) Subject to any agreement with respect thereto, the person authorized by an order under subsection 1,

- (a) shall make to the owner of any gas or oil rights, or of any right to store gas in the area, fair, just and equitable compensation in respect of such gas or oil rights or such right to store gas; and
- (b) shall make to the owner of any land in the area fair, just and equitable compensation for any damage necessarily resulting from the exercise of the authority given by such order.

(3) No action or other proceeding lies in respect of such compensation and failing agreement the amount thereof shall be determined by a board of arbitration in the manner provided in the regulations and *The Arbitrations Act* does not apply. 1960, c. 75, s. 19.

**20.** The Board may order the payment of money out of the Abandoned Works Fund under *The Energy Act*. 1960, c. 75, s. 20.

**21.** Subject to the regulations and *The Public Utilities Act*, no corporation shall abandon any work or discontinue to supply gas to any work or appliance without the leave of the Board. 1960, c. 75, s. 21.

**22.** Subject to the approval of the Lieutenant Governor in Council, the Board may make rules regulating its practice and procedure. 1960, c. 75, s. 22.

Costs

**23.**—(1) The costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be taxed.

Idem

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be taxed and allowed.

Idem

(3) The Board may prescribe a scale under which such costs shall be taxed.

Idem

(4) In this section, the costs may include the costs of the Board, regard being had to the time and expenses of the Board. 1960, c. 75, s. 23.

Power to review

**24.** The Board may at any time and from time to time rehear or review any application before deciding it and may by order rescind or vary any order made by it or any order that the Ontario Fuel Board had power to rescind or vary under *The Ontario Fuel Board Act, 1954*. 1960, c. 75, s. 24.

1954, c. 63

Appeal to Lieutenant Governor in Council

**25.** An appeal lies to the Lieutenant Governor in Council upon the petition of any party, all parties first having been given such notice as the Lieutenant Governor in Council deems appropriate, and he may vary or rescind any order of the Board whether the order was made *inter partes* or otherwise, and any order that he makes with respect thereto is binding upon the Board and all parties. 1960, c. 75, s. 25.

Stated case

**26.**—(1) The Board may, at the request of the Lieutenant Governor in Council or of its own motion or upon the application of any party to proceedings before the Board and upon such security being given as it directs, state a case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the Board, is a question of law.

Idem

(2) The Court of Appeal shall hear and determine the stated case and remit it to the Board with the opinion of the Court thereon. 1960, c. 75, s. 26.

Appeal to Court of Appeal

**27.**—(1) An appeal lies to the Court of Appeal from any order of the Board upon a question of law or jurisdiction, but no such appeal lies unless leave to appeal is obtained from the Court within one month of the making of the order sought to be appealed from or within such further time as the Court under the special circumstances of the case allows.

Board may be heard

(2) The Board is entitled to be heard by counsel or otherwise upon the argument of any such appeal.



(3) The Court of Appeal shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion, but in no case shall such order be retroactive in its effect. Board to act on Court's opinion

(4) The Supreme Court may fix the costs and fees to be taxed, allowed and paid upon appeals under this section and may make rules of practice respecting such appeals, but until such rules are made the rules of practice applicable to appeals from a judge of the Supreme Court to the Court of Appeal are applicable to appeals under this section. Costs, rules of practice

(5) The Board, or any member thereof, is not liable for costs in connection with any appeal or application for leave to appeal under this section. Board not liable for costs

(6) Every order made under section 17 takes effect at the time prescribed in the order and its operation is not suspended by an appeal. 1960, c. 75, s. 27. Orders to take effect notwithstanding appeal

**28.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) limiting, restricting or taking away any rights to use or consume natural gas without charge or at a reduced rate;
- (b) requiring the Board to approve or fix rates or other charges under section 17;
- (c) prescribing the circumstances under which works may be abandoned and the supply of gas to any work or appliance may be discontinued;
- (d) designating gas storage areas;
- (e) providing for compensation procedure for the owners of gas or oil rights or land who are referred to in section 19;
- (f) prescribing the duties of the secretary, assistant secretary and officers of the Board;
- (g) prescribing forms and providing for their use;
- (h) prescribing fees payable to the Board for certified copies of documents, reasons for decisions and in connection with proceedings before the Board;
- (i) exempting any person from the operation of or compliance with any provision of this Act;
- (j) requiring the Board to adjudicate on and examine and report on any question respecting energy that, in the opinion of the Lieutenant Governor in Council, requires a public hearing;

- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 75, s. 28.

## PART II

### ENERGY RETURNS OFFICER

Energy  
Returns  
Officer

**29.**—(1) The Lieutenant Governor in Council may appoint an officer known as the Energy Returns Officer who shall assist the Board.

Staff

(2) The staff of the Energy Returns Officer shall consist of such deputy officers and employees as are deemed necessary.

Information  
privileged

(3) Neither the Energy Returns Officer nor any of his staff shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duties.

No  
personal  
liability

(4) Neither the Energy Returns Officer nor any of his staff are personally liable for anything done by him under the authority of this Act or the regulations.

Moneys

(5) The moneys required for the purposes of the Energy Returns Officer shall be paid out of the moneys that are appropriated therefor by the Legislature.

May take  
oaths

(6) The Energy Returns Officer and every deputy officer has, for the purposes of this Act and the regulations, the same powers as a commissioner for taking affidavits in Ontario. 1960, c. 75, s. 29.

Assistance

**30.** The Lieutenant Governor in Council may appoint from time to time one or more persons having technical or special knowledge of any matter in question to inquire into and report to the Energy Returns Officer and to assist the Energy Returns Officer in any capacity. 1960, c. 75, s. 30.

Production  
of  
documents,  
etc.

**31.** The Energy Returns Officer may for the purposes of this Act and the regulations, by registered letter or by a demand served personally, require from any gas transmitter, distributor, storage company or associate any information relating to the business of transmitting, distributing or storing gas or transactions with gas transmitters, distributors or storage companies, or further explanation or details of such information or the production, or the production on oath, of any document or record connected with the business of transmitting, distributing or storing gas within such reasonable time as is stipulated in such letter. 1960, c. 75, s. 31.

**32.** When authorized in writing by the chairman of the Board in the form prescribed by the regulations, the Energy Returns Officer and every other person so authorized may, for the purposes of this Act and the regulations, at all reasonable times, enter into any premises or place where any gas transmitter, distributor, storage company or associate is carrying on business or keeps any document or record connected with the business of transmitting, distributing or storing gas, or connected with any transaction with a gas transmitter, distributor or storage company, or does or has done anything to any such document or record, and may examine any such document or record, and may conduct audits, and may require any such gas transmitter, distributor, storage company or associate or its officers or directors to give all reasonable assistance with such examination or audit and to answer all proper questions relating to the examination or audit either orally or in writing, on oath or by statutory declaration, and may, upon giving a receipt therefor, remove any such document or record from such premises or place for the purpose of photocopying such documents or records, providing that such photocopying is carried out with reasonable dispatch and such document or record is immediately thereafter returned to such gas transmitter, distributor, storage company or associate and the return thereof is acknowledged in writing. 1960, c. 75, s. 32.

**33.** The Lieutenant Governor in Council may make regulations for the purposes of this Part, Regulations

- (a) requiring and providing for the making of returns, statements or reports concerning energy by any person;
- (b) prescribing classes of gas transmitters, distributors and storage companies;
- (c) respecting the manner in which the accounts of gas transmitters, distributors and storage companies are to be kept;
- (d) prescribing a uniform system of accounts applicable to any of the classes of gas transmitters, distributors or storage companies;
- (e) requiring gas transmitters, distributors and storage companies to furnish all prospectuses approved by the Ontario Securities Commission and returns, and information respecting capital, revenues, and expenses, and such other information as may be required for the purposes of this Act or the regulations;



(f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. 1960, c. 75, s. 33.

Notify  
Board

**34.** The Energy Returns Officer shall notify the Board of all matters he thinks relevant to Board proceedings or possible future Board proceedings. 1960, c. 75, s. 34.

Witnesses

**35.**—(1) The Energy Returns Officer, any deputy officer, any person authorized by the chairman of the Board in writing under section 32 and any inspector may be called as a witness by the Board.

No  
privilege

(2) No document, record or photocopy thereof in the hands of the Energy Returns Officer shall be excluded as evidence on the ground of privilege.

Owner  
to be  
party

(3) No document, record or photocopy thereof or any return made under this Part in the hands of the Energy Returns Officer shall be introduced in evidence in any proceeding unless the owner of the document or record or the maker of the return is a party to that proceeding or an associate of a party to that proceeding. 1960, c. 75, s. 35.

Information  
confidential

**36.**—(1) All information and material furnished to or received or obtained by the Energy Returns Officer, his deputy officers and employees or any person authorized by the chairman of the Board in writing under section 32 is confidential.

Idem

(2) No person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of any such material.

Offence

(3) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1960, c. 75, s. 36.

Not  
evidence in  
certain  
proceedings

**37.** No document, record or photocopy thereof or any return made under this Part is admissible in evidence in any proceeding except proceedings before the Board, on appeals or other proceedings respecting an order of the Board or in summary proceedings commenced under section 38. 1960, c. 75, s. 37.

Offence

**38.**—(1) Every person who contravenes any provision of this Part or the regulations made under this Part is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$2,000 for each day

over which the offence continues, or, in default, to imprisonment for a term of not more than two years less a day.

(2) No information may be laid under this section or under section 36 without the written permission of the Minister in the form prescribed in the regulations. 1960, c. 75, s. 38. Permission of the Minister

### PART III

#### MISCELLANEOUS AND TRANSITIONAL

**39.**—(1) The Board shall make a report annually to the Minister containing such information as the Minister requires. Annual report

(2) A copy of the report shall be filed with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1960, c. 75, s. 39. Idem

**40.**—(1) Every order made under *The Ontario Fuel Board Act, 1954, The Fuel Supply Act, The Natural Gas Conservation Act* or *The Well Drillers Act* that was in force on the 1st day of September, 1960, shall be deemed to be an order made under this Act. Existing regulations and orders adopted 1954, c. 63; R.S.O. 1950, cc. 152, 251, 423

(2) Every application pending before the Ontario Fuel Board on the 1st day of September, 1960, becomes an application before the Board. Pending applications

(3) Any reference in any Act to the Ontario Fuel Board shall be deemed to be a reference to the Ontario Energy Board. 1960, c. 75, s. 40. Reference to Ontario Fuel Board

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## CHAPTER 272

## The Ontario Food Terminal Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Food Terminal Board;
- (b) "fruit and produce" includes dairy products, eggs, fish, honey, maple products, poultry and vegetables;
- (c) "manager" means the manager appointed under this Act;
- (d) "Minister" means the Minister of Agriculture;
- (e) "regulations" means the regulations made under this Act;
- (f) "securities" includes bonds, debentures and promissory notes;
- (g) "Terminal" means the Ontario Food Terminal.  
R.S.O. 1950, c. 261, s. 1.

2.—(1) The Ontario Food Terminal Board is continued as a body corporate and has a corporate seal in the form prescribed by the regulations.

Ontario  
Food  
Terminal  
Board

(2) The Board shall consist of not more than seven persons appointed by the Lieutenant Governor in Council.

Members of  
Board

(3) The Lieutenant Governor in Council may appoint one of the members of the Board to be chairman and one of the members to be vice-chairman.

Chairman,  
vice-chair-  
man

(4) A majority of the members of the Board constitutes a quorum.

Quorum

(5) The members of the Board shall receive such fees and expenses as the Lieutenant Governor in Council may determine and any member of the Board who is charged with the performance of any special services may be paid such additional remuneration therefor as the Lieutenant Governor in Council may determine. R.S.O. 1950, c. 261, s. 2, *amended*.

Allowances  
and ex-  
penses

3.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint a manager of the Terminal and such officers as may be prescribed by the regulations and fix their remuneration, and the appointment of any person as a

Officers,  
remunera-  
tion

manager or other officer does not disqualify him from acting as chairman, vice-chairman or a member of the Board.

**Employees**

(2) Subject to the approval of the Board, the manager of the Terminal may appoint such employees as he deems necessary and fix their salaries or other remuneration. R.S.O. 1950, c. 261, s. 3.

**Objects of Board**

**4.**—(1) The objects of the Board are,

- (a) to acquire, construct, equip and operate a wholesale fruit and produce market in the County of York to be known as the Ontario Food Terminal and to acquire and operate such facilities for the transportation and handling of fruit and produce as may be necessary for the purposes of the Terminal; and
- (b) to do such other acts as may be necessary or expedient for the carrying out of its operations and undertakings.

**Power to borrow money and issue securities**

(2) The Board has the power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and at such place or places as the Board may determine. R.S.O. 1950, c. 261, s. 4 (1, 2).

**Additional powers**  
R.S.O. 1960, c. 71

(3) The Board, in carrying out its objects, has the powers set out in sections 22 and 288 of *The Corporations Act*. 1955, c. 52, s. 1.

**Agreements**

**5.** The Board may rent space in the Terminal to such persons and upon such terms as to the Board may seem proper and may make such arrangement and enter into such agreement with any such person as it may deem advisable in the circumstances. R.S.O. 1950, c. 261, s. 5.

**Guarantee by Province**

**6.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Board, the repayment of any advances made by banks to the Board and the payment of any other indebtedness incurred by the Board.

**Form of guarantee**

(2) The form of any such guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1950, c. 261, s. 6.

**Application of moneys**

**7.** All moneys received by the Board from the operation of its undertakings or otherwise shall be applied to,

- (a) operating expenses;

- (b) payment of interest on indebtedness; and
- (c) a sinking fund established by the Treasurer of Ontario for the repayment of securities guaranteed by the Treasurer of Ontario under subsection 1 of section 6 and for the retirement of any other indebtedness of the Board,

and any surplus moneys remaining in any year after paying for operating expenses, interest on indebtedness and the repayment of any part of the principal moneys payable in that year shall be used in reducing the cost of operating the Terminal, reducing the fees, rents or other charges charged or made by the Board or for the setting up of such reserve funds as the Board may determine. R.S.O. 1950, c. 261, s. 7; 1956, c. 56, s. 1.

**8.** The fiscal year of the Board commences on the 1st Fiscal year day of April in each year and ends on the 31st day of March in the following year. 1955, c. 52, s. 2, *part*.

**9.—(1)** The Board shall make a report annually to the Minister, and such report shall contain a financial statement <sup>Annual report</sup> certified by the auditor and such other matters relating to the work of the Board as the Minister may require.

(2) A copy of the report shall be filed with the Provincial <sup>Idem</sup> Secretary, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1955, c. 52, s. 2, *part*.

**10.** The books and accounts of the Board shall be audited <sup>Audit</sup> and checked from time to time by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council may designate and such auditor shall make an annual report to the Treasurer of Ontario. R.S.O. 1950, c. 261, s. 9.

**11.** The Board may be sued and may institute or defend <sup>Authority to sue and be sued</sup> proceedings in any court. R.S.O. 1950, c. 261, s. 10.

**12.—(1)** No person shall establish or operate within the City of Toronto or the Counties of York or Peel any market <sup>Markets in Toronto, York and Peel</sup> for the sale by wholesale of fruit and vegetables except with the approval of the Board, but this section does not apply to any such market that was being regularly and continuously operated as of the 1st day of April, 1955, so long as it is not extended or enlarged. R.S.O. 1950, c. 261, s. 12; 1955, c. 52, s. 4 (1).



Interpre-  
tation

(2) In subsection 1, the expression "any market for the sale by wholesale of fruit and vegetables" includes any premises at which fruit or vegetables are purchased for resale. 1955, c. 52, s. 4 (2).

## Regulations

**13.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) prescribing the officers of the Board;
- (b) prescribing the powers and duties of the manager of the Terminal and of the officers of the Board;
- (c) prescribing the form of the seal of the Board;
- (d) respecting the operation, management and maintenance of the Terminal;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1955, c. 52, s. 5, *part*.

## Rules

**14.** Subject to the regulations, the Board may make rules with respect to,

- (a) the conduct of the Board's employees;
- (b) the conduct of the Board's tenants and their employees;
- (c) the conduct of any person on the Board's premises for any purpose;
- (d) the use by any person of the Board's facilities and equipment. 1955, c. 52, s. 5, *part*.

## Offence

**15.** Every person who contravenes any of the provisions of this Act or the regulations or any rule made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for a first offence and to a fine of not more than \$200 or to imprisonment for a term of not more than thirty days, or both, for any subsequent offence. 1955, c. 52, s. 5, *part*; 1956, c. 56, s. 2.

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## CHAPTER 273

## The Ontario Highway Transport Board Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Highway Transport Board established under this Act;
- (b) "Minister" means such Minister as is designated by the Lieutenant Governor in Council;
- (c) "public commercial vehicle" means a public commercial vehicle as defined in *The Public Commercial Vehicles Act*; R.S.O. 1960, c. 319
- (d) "public vehicle" means a public vehicle as defined in *The Public Vehicles Act*. 1955, c. 54, s. 1. R.S.O. 1960, c. 337

2.—(1) There shall be a board known as the Ontario Highway Transport Board which shall consist of three members or as many more as the Lieutenant Governor in Council may from time to time determine. Ontario Highway Transport Board established

(2) The members shall be appointed by the Lieutenant Governor in Council and one of them shall be designated as chairman and one of them as vice-chairman. 1955, c. 54, s. 2. Appointment

3. A vacancy in membership of the Board or the absence or inability of a member to act does not impair the powers of the Board or of the remaining members who may exercise all the jurisdiction and powers of the Board. 1956, c. 58, s. 1, *part*. Powers of Board on vacancy

4. Vacancies in the membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. 1955, c. 54, s. 3. Vacancies

5. Two members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board. 1955, c. 54, s. 4. Quorum

6.—(1) In the absence of the chairman or in case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as, and has all the powers of, the chairman, including the power to complete any unfinished matter. When vice-chairman may act

Idem

(2) Where the vice-chairman has acted in place of the chairman, it shall be presumed conclusively that he so acted in the absence or disability or vacancy in the office of the chairman. 1955, c. 54, s. 5.

Attendance  
to duties

**7.** Unless otherwise authorized by statute or the rules of the Assembly or the Lieutenant Governor in Council, the members of the Board shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties. 1956, c. 58, s. 1, *part*.

Staff

**8.** The staff of the Board shall consist of a secretary and such officers and employees as may be deemed necessary. 1955, c. 54, s. 6.

Power to  
take  
evidence on  
oath, etc.

**9.—(1)** The Board has the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as may be requisite and has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases.

Witness  
fees

(2) Every person summoned to attend before the Board shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. 1955, c. 54, s. 8.

Power to  
require  
filing of  
information

**10.** The Board may require any person engaged in the transportation of goods or passengers to produce and file with the Board at any time or periodically such documents and information as it deems necessary. 1958, c. 72, s. 1.

Actions  
against  
Board or  
members

**11.—(1)** No action or other proceeding lies against the Board or any member of the Board or any officer, agent or employee of the Board for anything done or purporting to be done under or in pursuance of this or any other Act.

Protection  
from being  
called as  
witnesses

(2) No member of the Board or of its staff is required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty. 1955, c. 54, s. 9.

Execution  
of docu-  
ments

**12.** Every order and certificate made by the Board is effective if signed by two members of the Board, one of whom is the chairman or the vice-chairman of the Board, and every other document made or issued by the Board is effective if signed by a member of the Board. 1956, c. 58, s. 3.



**13.** *The Regulations Act* does not apply to any order, decision, consent, approval or certificate issued by the Board. 1955, c. 54, s. 11. R.S.O. 1960, c. 349 not to apply

**14.**—(1) The Board shall sit at such times and places as the chairman may from time to time designate and shall conduct its proceedings in such manner as may seem to it most convenient for the speedy and effectual dispatch of its duties. Sittings

(2) Where sittings of the Board are appointed to be held in a municipality in which a court house is situate, the Board and its members have in all respects the same rights as a judge of the Supreme Court with respect to the use of the court house and any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. Use of court house

(3) Where the sittings of the Board are appointed to be held in a municipality in which there is a municipal hall but no court house, the municipality shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for the purpose. 1955, c. 54, s. 12. Use of town hall

**15.** The Board has as to all matters within its jurisdiction under this Act authority to hear and determine all questions of law or of fact. 1956, c. 58, s. 4. Power to determine law and fact

**16.** The Board may at any time and from time to time rehear any application and may review, amend or revoke its decisions, orders, directions, certificates or approvals and may within its jurisdiction review, amend or revoke any decision, certificate or approval made before the 17th day of October, 1955, by the Ontario Municipal Board under *The Public Commercial Vehicles Act* and *The Public Vehicles Act*. 1955, c. 54, s. 13. Power to review  
R.S.O. 1950, cc. 304, 322

**17.** A certified copy of an order of the Board under this or any other Act may be filed in the office of the Registrar of the Supreme Court and thereupon it becomes a judgment or order of the Supreme Court enforceable in the same manner as a judgment or order of that court to the like effect. 1955, c. 54, s. 14. Enforcement of orders

**18.**—(1) The costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be taxed. Costs

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be taxed and allowed. Idem

**Idem** (3) The Board may prescribe a scale under which such costs shall be taxed. 1955, c. 54, s. 15.

**Stated case** **19.**—(1) The Board may, at the request of the Lieutenant Governor in Council or of its own motion or upon the application of any party to proceedings before the Board and upon such security being given as it directs, state a case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the Board, is a question of law.

**Idem** (2) The Court of Appeal shall hear and determine the stated case and remit it to the Board with the opinion of the Court thereon. 1955, c. 54, s. 16.

**Lieutenant Governor may rescind orders of Board** **20.** The Lieutenant Governor in Council may at any time upon petition of any party, all parties first having been given such notice as the Lieutenant Governor in Council deems appropriate, vary or rescind any order of the Board whether the order was made *inter partes* or otherwise, and any order that the Lieutenant Governor in Council makes with respect thereto is binding upon the Board and all parties. 1955, c. 54, s. 17.

**Appeal on questions of jurisdiction and law** **21.**—(1) An appeal lies from the Board to the Court of Appeal upon any question of jurisdiction or upon any question of law, but no such appeal lies unless leave to appeal is obtained from the Court within one month of the making of the order or decision sought to be appealed from or within such further time as the Court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal.

**Notice of appeal** (2) Upon such leave being obtained, the Registrar shall set the appeal down for hearing at the next sittings of the Court and the party appealing shall, within ten days, give to the parties affected by the appeal, or to the solicitors by whom such parties were represented before the Board, and to the Board, notice in writing that the case has been so set down, and the appeal shall be heard and disposed of by the Court as speedily as practicable.

**Opinion of Court** (3) On the hearing of an appeal under this section, the Court may draw such inferences as are not inconsistent with the facts expressly found by the Board and necessary for determining the question of jurisdiction or law, as the case may be, and shall specify its opinion to the Board, and the Board shall make an order in accordance with such opinion.

**Board may be heard** (4) The Board is entitled to be heard by counsel or otherwise upon the argument of any such appeal.

(5) The Supreme Court may fix the costs and fees to be taxed, allowed and paid upon appeals under this section and may make rules of practice respecting such appeals, and until such rules are made the rules of practice applicable to appeals from a judge of the Supreme Court to the Court of Appeal are applicable to appeals under this section. Costs, rules of practice

(6) The Board, or any member thereof, is not liable for costs in connection with any appeal or application for leave to appeal under this section. 1955, c. 54, s. 18. Board not liable for costs

**22.** Except as provided in sections 16, 20 and 21, every order and decision of the Board is final and binding. 1955, c. 54, s. 19. Orders of Board final and binding

**23.**—(1) The Board may make rules of practice and procedure applicable to proceedings before the Board under this or any other Act. Board may make rules

(2) The Board may charge and collect such fees as to it may seem proper for all copies of documents, maps or plans, and all certificates as to the same. Fees for copies, certificates, etc.

(3) Upon the application of any person and on payment of the prescribed fee, the secretary shall deliver to such person a certified copy of any order, decision, certificate or other document issued by the Board. 1955, c. 54, s. 20. Certified copies of documents

**24.** There shall be paid upon every application to the Board or every order thereof such fee as the Board may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such fee shall be paid in the first instance by the applicant and is a debt due by the applicant to Her Majesty and a summary order may be made by the Board for payment thereof, and such summary order may be made an order of the Supreme Court. 1955, c. 54, s. 21. Fees of Board

**25.** All fees charged and collected by the Board shall be paid over, accompanied by a detailed statement thereof, to the Treasurer of Ontario at such intervals as he may require. 1955, c. 54, s. 22. Payment over to Province

**26.** Every document purporting to be signed by a member or the secretary of the Board is without proof of the signature *prima facie* evidence that the document was duly signed, and a copy of such document in the custody of the secretary or on record with the Board purporting to be certified by the secretary is *prima facie* evidence of such document without proof of the signature of the secretary. 1955, c. 54, s. 23. Evidence of documents



Annual  
report

**27.—**(1) The Board shall, after the close of each calendar year, make an annual report upon the affairs of the Board to the Minister who shall file it with the Provincial Secretary.

Tabling

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council, and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1955, c. 54, s. 24.

## CHAPTER 274

## The Ontario Municipal Board Act

## PART I

## INTERPRETATION

## 1.—(1) In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof; R.S.O. 1950, c. 262, s. 1 (1), cls. (a), (b).
- (c) "municipality" means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory; 1956, c. 60, s. 1.
- (d) "public utility" means any waterworks, gasworks, including works for the production, transmission, distribution and supply of natural gas, electric heat, light and power works, and telegraph lines, or any works supplying the general public with necessities or conveniences. R.S.O. 1950, c. 262, s. 1 (1), cl. (d); 1954, c. 94, s. 119 (1).

(2) The interpretation sections of *The Railways Act* apply to this Act. R.S.O. 1950, c. 262, s. 1 (2).

Interpre-  
tation under  
R.S.O. 1950,  
c. 331

2. The provisions of this Act relating to railways apply to all railways, whether operated by steam, electricity or other motive power, including street railways. R.S.O. 1950, c. 262, s. 2.

Application  
of Act to all  
railways

References  
to former  
board

**3.** Where in any general or special Act reference is made to the Ontario Railway and Municipal Board or to that board under any other name, it shall be deemed that such reference is made to the Board as named in this Act. R.S.O. 1950, c. 262, s. 3.

## PART II

### CONSTITUTION OF BOARD

Municipal  
Board  
continued

**4.** The Ontario Municipal Board is continued under the provisions of this Act. R.S.O. 1950, c. 262, s. 4.

Com-  
position  
of Board

**5.**—(1) The Board shall be composed of as many members as the Lieutenant Governor in Council may from time to time determine. R.S.O. 1950, c. 262, s. 5 (1).

Appoint-  
ments

(2) The Lieutenant Governor in Council shall appoint the members of the Board and shall appoint one member as chairman and may appoint one vice-chairman or more. 1956, c. 60, s. 2.

Vacancies

**6.** Vacancies in membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. R.S.O. 1950, c. 262, s. 6.

Tenure of  
office

**7.** Members of the Board shall hold office during pleasure. R.S.O. 1950, c. 262, s. 7.

Absence,  
etc., of  
chairman

**8.** Where,

(a) the chairman is absent or unable to act, a vice-chairman designated by the chairman; or

(b) the office of chairman is vacant, a vice-chairman designated by the Minister of Municipal Affairs,

has and shall exercise the jurisdiction and powers of the chairman, including the power to complete any unfinished matter. 1956, c. 60, s. 3.

Presump-  
tion of  
having duly  
acted

**9.** Whenever it appears that a vice-chairman has acted for and instead of the chairman, it shall conclusively be presumed that he has so acted in the absence or disability of or vacancy in the office of the chairman. R.S.O. 1950, c. 262, s. 9; 1956, c. 60, s. 4.

Powers of  
Board on  
vacancy

**10.** A vacancy in membership of the Board or the absence or inability of a member to act does not impair the powers of the Board or of the remaining members who shall exercise all the jurisdiction and powers of the Board. R.S.O. 1950, c. 262, s. 10.



**11.**—(1) Where a member of the Board resigns his office, retires or is appointed to another position in the service of the Crown, he shall, during such period of time as the Lieutenant Governor in Council designates, in respect of any application, proceeding, matter or thing heard before him or commenced by him as a member of the Board, have and exercise the jurisdiction and powers of a member of the Board including the power to complete any unfinished matter and give a decision therein as if he had not so resigned, retired or been appointed.

Completion  
of matters  
by members  
who retire,  
resign, etc.

(2) An order in council under subsection 1 may be made before or after such resignation, retirement or appointment and may be retroactive in effect. 1960, c. 77, s. 1.

Order in  
council

**12.**—(1) Except as provided in section 15, two members of the Board form a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board and not less than two members shall attend at the hearing of every application. 1957, c. 86, s. 1.

Quorum

(2) All orders, rules, regulations, certificates and other documents made or issued by the Board may be signed by any member of the Board or the secretary of the Board or any officer of the Board designated by the Lieutenant Governor in Council as a signing officer. R.S.O. 1950, c. 262, s. 11 (2); 1956, c. 60, s. 5.

Signature of  
orders, etc.

**13.** The chairman shall from time to time assign the members of the Board to its various sittings and may change any such assignments at any time and the chairman may from time to time direct any officer or other member of the staff of the Board to attend any of the sittings of the Board and may prescribe his duties. R.S.O. 1950, c. 262, s. 12.

Assignment  
of members  
and staff for  
sittings

**14.** The chairman, when present, shall preside at all sittings of the Board, and his opinion upon any question of law shall prevail. R.S.O. 1950, c. 262, s. 13.

Questions  
of law

**15.**—(1) The chairman may authorize one member of the Board to conduct the hearing of an application and to report to the Board, and such member has all the powers of the Board for the purpose of such hearing.

One mem-  
ber may  
conduct  
hearing

(2) The report of such member may be adopted as the order of the Board by two other members of the Board, one of whom shall be the chairman or a vice-chairman, or may be otherwise dealt with as the Board deems proper. 1957, c. 86, s. 2.

Report

Attendance  
to duties

**16.** Unless otherwise authorized by statute or the rules of the Assembly or the Lieutenant Governor in Council, the members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties. R.S.O. 1950, c. 262, s. 16.

Prohibition  
against,

**17.** No member or officer of the Board shall, directly or indirectly,

holding  
municipal  
securities,  
railway  
stock, etc.

(a) hold, purchase, take, deal in or become interested in any stock, bond, debenture, share or other security of any municipality in Ontario or of any railway or public utility company or any company that in any way controls a railway or public utility;

having  
interest in  
contract

(b) become concerned or interested in any contract, undertaking or work with or for any municipality, railway or public utility company;

having  
interest in  
appliances

(c) have any interest in any device, appliance, machine, patented process or article or in any part thereof that may be required or used for the purpose of the business of any municipality, railway or public utility company. R.S.O. 1950, c. 262, s. 17.

Duty to  
dispose of  
interest

**18.** If a member or officer of the Board, by will, succession, or otherwise for his own benefit, directly or indirectly, becomes the owner, holder or otherwise vested with or interested in any stock, bond, debenture, share, security, contract, undertaking, work, device, appliance, machine, patented process or article mentioned in section 17, he shall within one year thereafter absolutely sell and dispose of the same or his interest therein. R.S.O. 1950, c. 262, s. 18.

Members of  
Board not  
to be  
officers or  
directors of  
certain  
companies

**19.** No member or officer of the Board shall act as director or officer of any railway or public utility company or of any company that has power to invest any portion of its funds in the securities of a municipality, railway or public utility company. R.S.O. 1950, c. 262, s. 19.

Securing  
assistance  
for purpose  
of inquiry

**20.** For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this or any other Act or by the Lieutenant Governor in Council, the Board may, with the consent of the Minister in charge of any department of the Government, avail itself of the services of any officer or employee of such department, and for any such purpose it may, with the approval of the Lieutenant Governor in Council, avail itself of the services

of any member, officer or employee of any board or commission established by Act of the Legislature. R.S.O. 1950, c. 262, s. 20.

**21.** The Lieutenant Governor in Council shall provide within the City of Toronto a suitable place in which the sittings of the Board may be held and also suitable offices for the members, secretary, staff and other employees and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same and for the performance of the duties of the Board. R.S.O. 1950, c. 262, s. 21. <sup>Offices at Toronto</sup>

**22.** The Board shall sit at such times and places within the province as the chairman may from time to time designate and shall conduct its proceedings in such manner as may seem to it most convenient for the speedy and effectual dispatch of its duties. R.S.O. 1950, c. 262, s. 22. <sup>Sittings of Board</sup>

**23.** The sittings of the Board may be either private or open to the public, but any complaint made to the Board shall, on the application of any party thereto, be publicly heard. R.S.O. 1950, c. 262, s. 23. <sup>Private or public</sup>

**24.** Where sittings of the Board or any member thereof are appointed to be held in any municipality in which a court house is situate, the Board or members have in all respects the same authority and right as a judge of the Supreme Court with respect to the use of the court house and any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. R.S.O. 1950, c. 262, s. 24. <sup>Use of court house</sup>

**25.** Where sittings of the Board or any member thereof are appointed to be held in any municipality in which there is a hall belonging to the corporation thereof, but no court house, the corporation shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for such purpose. R.S.O. 1950, c. 262, s. 25. <sup>Use of town hall</sup>

**26.—(1)** The Lieutenant Governor in Council may from time to time, upon the recommendation of the Board, appoint one or more experts or persons having technical or special knowledge of matters or subjects within the jurisdiction of the Board or in question in respect of any particular matter or subject before the Board to assist the Board in an advisory or other capacity. R.S.O. 1950, c. 262, s. 26. <sup>Experts</sup>



Acting  
member

(2) The Lieutenant Governor in Council, on the recommendation of the chairman of the Board, may from time to time appoint as an acting member of the Board a person who, in the opinion of the chairman, is specially qualified to assist the Board with respect to any particular application to be assigned by the chairman to act with any two members of the Board for the purpose of hearing and determining such application and the person so appointed has all the powers of a member of the Board for such purpose and is entitled to such remuneration as the Lieutenant Governor in Council may authorize. 1958, c. 74, s. 1.

Secretary

**27.**—(1) There shall be a secretary of the Board who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Acting  
secretary

(2) Where the office of the secretary is vacant or in his absence or inability to act, the Board may appoint a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Board may act as secretary. R.S.O. 1950, c. 262, s. 27.

Duties of  
secretary:

**28.** It is the duty of the secretary,

keep  
minutes

(a) to keep a record of all applications to and proceedings before the Board or any member;

custody of  
records

(b) to have the custody and care of all records and documents of or pertaining to the business of or proceedings before the Board or any member, or filed in his office;

authentication  
of  
regulations,  
orders, etc.

(c) to have every order, rule, regulation and certificate drawn pursuant to the directions of the Board and according to the provisions of any statute affecting the same properly authenticated and issued, filed and otherwise dealt with as may be requisite;

record  
books

(d) to keep proper books of record in which he shall cause to be entered a true copy of every order, rule and regulation made by the Board and of every other document that the Board may require to be entered therein, and such entry constitutes and is the original record of every such order, rule, regulation and document;

other  
matters

(e) to carry out such other functions and duties as may by statute, the Lieutenant Governor in Council or the Board be assigned to him or his office;

obey  
directions

(f) to obey all rules, regulations and directions made or given by the Board touching his duties or his office. R.S.O. 1950, c. 262, s. 28.

**29.** Upon application of any person and on payment of such fees as the Board may prescribe, the secretary shall deliver to such person a certified copy of any order, rule, regulation, certificate or other document made, given or issued by the Board. R.S.O. 1950, c. 262, s. 29.

Certified  
copies of  
regulations  
or orders

**30.** Whenever the Board by virtue of any power vested in it appoints or directs any person other than a member of the staff of the Board to perform any service required by this or any other Act, such person shall be paid such sum for services and expenses as, upon the recommendation of the Board, the Lieutenant Governor in Council may approve. R.S.O. 1950, c. 262, s. 33.

Remunera-  
tion of  
appointee

**31.** No member of the Board or its secretary or any of its staff is required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty. R.S.O. 1950, c. 262, s. 35.

Protection  
from being  
called as  
witnesses

**32.** No member of the Board or its secretary or any of its staff is personally liable for anything done by it or by him under the authority of this or any other Act. R.S.O. 1950, c. 262, s. 36.

Protection  
from  
personal  
liability

### PART III

#### GENERAL JURISDICTION AND POWERS

**33.** The Board for all purposes of this Act has all the powers of a court of record and shall have an official seal which shall be judicially noticed. R.S.O. 1950, c. 262, s. 37.

Board to  
have powers  
of court of  
record and  
a seal

**34.** The Board, as to all matters within its jurisdiction under this Act, has authority to hear and determine all questions of law or of fact. R.S.O. 1950, c. 262, s. 38.

Power to  
determine  
law and  
fact

**35.** The Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. R.S.O. 1950, c. 262, s. 39.

Jurisdiction  
exclusive

**36.—(1)** The Board has jurisdiction and power,

General  
jurisdiction  
and powers

- (a) to hear and determine all applications made, proceedings instituted and matters brought before it under this Act or any other general or special Act and for such purpose to make such orders, rules and regulations, give such directions, issue such certificates and otherwise do and perform all such acts, matters,

deeds and things, as may be necessary or incidental to the exercise of the powers conferred upon the Board under such Act;

- (b) to perform such other functions and duties as are now or hereafter conferred upon or assigned to the Board by statute or under statutory authority;
- (c) to order and require or forbid, forthwith or within any specified time and in any manner prescribed by the Board, the doing of any act, matter or thing or the omission or abstention from doing or continuance of any act, matter or thing, which any person, firm, company, corporation or municipality is or may be required to do or omit to be done or to abstain from doing or continuing under this or any other general or special Act, or under any order of the Board or any regulation, rule, by-law or direction made or given under any such Act or order or under any agreement entered into by such person, firm, company, corporation or municipality;
- (d) to make, give or issue or refuse to make, give or issue any order, directions, regulation, rule, permission, approval, certificate or direction, which it has power to make, give or issue.

Compensation for lands expropriated, election as to who shall determine

R.S.O. 1960, c. 338

(2) Notwithstanding anything in any general or special Act, where land or other property has been expropriated under the authority of any general or special Act all claims for compensation or damages by reason of such expropriation shall, where the expropriating body so elects by notice in writing, be heard and determined by the Board, and where such election is made sections 28, 30, 31, 32 and 36 of *The Public Works Act*, except as otherwise provided in the Act authorizing the expropriation, *mutatis mutandis* apply. R.S.O. 1950, c. 262, s. 40.

Powers of Supreme Court exercisable by Board

**37.** The Board for the due exercise of its jurisdiction and powers and otherwise for carrying into effect the provisions of this or any other general or special Act, has all such powers, rights and privileges as are vested in the Supreme Court with respect to the amendment of proceedings, addition or substitution of parties, attendance and examination of witnesses, production and inspection of documents, entry on and inspection of property, enforcement of its orders and all other matters necessary or proper therefor. R.S.O. 1950, c. 262, s. 41.

Jurisdiction under letters patent R.S.O. 1960, c. 71

**38.** Where by the provisions of any letters patent or supplementary letters patent of any corporation, heretofore or hereafter issued under *The Corporations Act* or any other



general or special Act, any jurisdiction is conferred upon the Board or it is provided that any matter in any way may be referred to the Board with respect thereto, it has power to inquire into, hear and determine all matters and things necessary or incidental to the due exercise of such jurisdiction and reference and to make and give orders, directions, regulations, rules, permissions, approvals, sanctions and certificates as to the Board may seem proper. R.S.O. 1950, c. 262, s. 42.

**39.** Where by this or any other general or special Act the permission, approval or sanction of the Board is necessary to the exercise of any power or the doing, or the abstention from doing or continuing to do any act, matter, deed or thing, such power shall not be exercised or act, matter, deed or thing be done or abstained from being done or be continued until such permission, approval or sanction has been obtained. R.S.O. 1950, c. 262, s. 43. Where Board's approval not given

**40.**—(1) The Board may, of its own motion, and shall, upon the request of the Lieutenant Governor in Council, inquire into, hear and determine any matter or thing that it may inquire into, hear and determine upon application or complaint, and with respect thereto has and may exercise the same powers as, upon any application or complaint, are vested in it. When Board may act

(2) Any power or authority vested in the Board under this or any other general or special Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. R.S.O. 1950, c. 262, s. 44. Power to act from time to time

**41.**—(1) The Lieutenant Governor in Council may from time to time, upon the request of the Board, or of his own motion, appoint counsel to appear before the Board and conduct an inquiry or hearing or to represent the Board upon the argument of any appeal to the Court of Appeal or to any other court in an appeal from the Court of Appeal, in cases where any such appeal may lie. Appointment of counsel

(2) The Board may direct that the costs of such counsel shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. R.S.O. 1950, c. 262, s. 45. Costs

**42.** The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision, approval or order made by it. R.S.O. 1950, c. 262, s. 46. Power to rehear, review, etc.

**43.** The Board shall, when required so to do by the Lieutenant Governor in Council, the Assembly or any committee thereof, make or cause to be made under its supervision an Board to inquire and report on certain matters at request

inquiry into any facts that the Lieutenant Governor in Council, the Assembly or any such committee may desire to ascertain before passing upon the propriety of any proposed change in the general law, or upon any proposed Bill relating to a municipality or to a railway or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such inquiry the Board shall report its opinion thereon. R.S.O. 1950, c. 262, s. 47.

Reference by  
Lieutenant  
Governor  
in Council  
for report

**44.** The Lieutenant Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a municipality, railway or public utility subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the order in council. R.S.O. 1950, c. 262, s. 48.

Inquiry on  
municipal  
organization

**45.** The Board shall upon the request of the Lieutenant Governor in Council inquire into and report on the establishment, organization, reorganization and methods of operation of any two or more municipalities in any designated area and any question, matter or thing relating thereto. 1958, c. 74, s. 2.

Board  
may order  
inquiries

**46.**—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

Costs

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. R.S.O. 1950, c. 262, s. 49.

General  
powers

**47.** The Board may order and require any person or company, corporation or municipality to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing that such person, company, corporation or municipality is or may be required to do under this Act, or under any other general or special Act, or under any regulation, order, direction, agreement or by-law, and may forbid the doing or continuing of any act, matter or thing that is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law. R.S.O. 1950, c. 262, s. 50.

Adoption of  
appliances  
for pro-  
tection of  
life, etc.

**48.** The Board may require any person, company, corporation or municipality, subject to its jurisdiction, to adopt such means and appliances and to take and use such pre-

cautions as the Board may deem necessary or expedient for the safety of life and property. R.S.O. 1950, c. 262, s. 51.

**49.**—(1) When the Board, in the exercise of any power vested in it, by any order directs any structure, appliances, equipment, works, renewals or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what person, company, corporation or municipality interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

Duty, to execute works ordered by Board

(2) The Board may order by whom, in what proportion and when, the costs and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order, shall be paid. R.S.O. 1950, c. 262, s. 52.

to pay expenses of them

**50.** If default is made by a person, company, corporation or municipality in the doing of any act, matter or thing, that the Board has authority under this or any other general or special Act, to direct and has directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the person, company, corporation or municipality in default as money paid for and at his or its request, and the certificate of the Board of the amount so expended is conclusive evidence thereof. R.S.O. 1950, c. 262, s. 53.

Board's powers upon default in obeying order

**51.** The Board also has power to enforce its orders and directions respecting any public utility in the manner and by the means provided in section 261 of *The Railways Act*. R.S.O. 1950, c. 262, s. 54.

Enforcing orders of Board  
R.S.O. 1950, c. 331

**52.** The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may,

Powers respecting inquiries:

- (a) enter upon and inspect any place, building or works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite;
- (b) inspect any works, structure, rolling stock or property of the company;

entry

inspection



attendance  
of witnesses

- (c) require the attendance of all such persons as it or he thinks fit to summon, and examine and require answers or returns to such inquiries as it or he thinks fit to make;

production  
of docu-  
ments, etc.

- (d) require the production of all books, papers, plans, specifications, drawings and documents, relating to any matter before it or him;

oaths

- (e) administer oaths,

summoning  
witnesses  
and  
enforcing  
attendance

and has the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things that they are required to produce, as is vested in any court in civil cases. R.S.O. 1950, c. 262, s. 55.

## PART IV

### GENERAL MUNICIPAL JURISDICTION

General  
municipal  
jurisdiction  
of the  
Board:

**53.—(1)** The Board has jurisdiction and power in relation to municipal affairs,

approving  
borrowings

- (a) to approve the exercise in whole or in part of any of the powers by a municipality under any general or special Act that may or will involve or require the borrowing of money by the issue of debentures, or the incurring of any debt or the issuing of any debentures, which approval the municipality voluntarily applies for or is required by law to obtain;

approving  
by-laws

- (b) to approve any by-law or proposed by-law of a municipality, which approval the municipality voluntarily applies for or is required by law to obtain;

floating  
debt

- (c) to authorize the issue by a municipality, without the assent of the electors, of debentures to pay any floating indebtedness that it may have incurred, upon such terms, in such manner and at such times as the Board may approve, or to direct that such floating indebtedness be paid in such other manner and within such time as the Board may require;

callable  
debentures

- (d) to authorize the issue by a municipality, without the assent of the electors, of debentures to retire debentures that are redeemable before maturity, and the raising of the sum required for payment of such new debentures in the same manner as the sum required for payment of the retired debentures;

certifying  
validity of  
debentures

- (e) to certify to the validity of debentures issued under the authority of any by-law of a municipality that the Board has approved;

- (f) to direct that before any approval is given by the Board to the exercise of any powers by a municipality or to any by-law passed by it, or before any authorization is given by the Board to the issue by a municipality of debentures to pay any floating indebtedness, the assent of the electors thereof or of those thereof who are qualified to vote on money by-laws first be obtained, notwithstanding such assent is not otherwise requisite;
- (g) to supervise, where deemed necessary, the expenditure of any moneys borrowed by a municipality with the approval of the Board; <sup>assent of electors to by-laws</sup> <sup>supervising certain expenditures</sup>
- (h) to require and obtain from any municipality at any time and for any definite period statements in detail of any of its affairs, financial and otherwise; <sup>detailed statement of affairs</sup>
- (i) to inquire at any time into any or all of the affairs, financial and otherwise, of a municipality and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interests of the municipality, its ratepayers, inhabitants and creditors and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of a default by any municipality in meeting its obligations; <sup>power of investigation</sup>
- (j) when authorized by an agreement heretofore or hereafter entered into by two or more municipalities in which the municipalities agree to be bound by the decision of the Board, to hear and determine disputes in relation to such agreement; <sup>settlement of disputes between municipalities</sup>
- (k) to hear and determine the application of any municipality to confirm, vary or fix the rates charged or to be charged in connection with water or sewage service supplied thereto by any other municipality; <sup>supply of water</sup>
- (l) generally, to exercise such jurisdiction and powers as by or under the authority of this Act or *The Municipal Act* or any other general or special Act are conferred upon the Board. R.S.O. 1950, c. 262, s. 56 (1); 1959, c. 67, s. 1; 1960, c. 77, s. 2. <sup>general R.S.O. 1960, c. 249</sup>

(2) Clauses *c* and *d* of subsection 1 have effect notwithstanding any general or special Act. R.S.O. 1950, c. 262, s. 56 (2). <sup>Conflict for approval</sup>

**54.** A municipality may apply to the Board for its approval of any by-law the passing of which has been authorized by an order of the Board made pursuant to section 64. 1952, c. 71, s. 1. <sup>Voluntary application for approval of by-laws</sup>

Application  
to Board for  
approval of  
by-law  
authorizing  
borrowing

**55.** Any person the holder of or otherwise entitled to receive any debenture of a municipality or the proceeds of sale thereof or to whom a debt has been incurred or from whom money has been borrowed under the authority of any by-law of a municipality may apply to the Board for approval of the by-law, and the Board may approve the same. R.S.O. 1950, c. 262, s. 58.

Approval to  
be withheld  
where  
litigation  
pending

**56.** The Board shall not grant or issue any approval or certificate under this or any other general or special Act in respect of any municipal affair or matter, while the same or the validity thereof is called in question in any pending action or proceeding or by which it is sought to quash any by-law of a municipality relating thereto. R.S.O. 1950, c. 262, s. 59.

Time for  
certifying  
validity of  
debentures

**57.—**(1) The Board shall not certify the validity of any debenture issued under any by-law of a municipality until thirty days after the final passing of the by-law, unless such notice, if any, as the Board may direct has been published or given of the application for such certification. R.S.O. 1950, c. 262, s. 60 (1).

Exception

(2) This section does not apply to any debenture authorized under clause *d* of subsection 1 of section 53 or to a consolidating by-law if every by-law consolidated was finally passed at least thirty days before certification. R.S.O. 1950, c. 262, s. 60 (2); 1956, c. 60, s. 7.

Validation  
of by-laws  
and  
debentures

**58.—**(1) In any case where either prior or subsequent to the issue and sale of any debentures issued or to be issued by a municipality, application is made to the Board for its approval of any by-law authorizing the issue of such debentures, and of the debentures, the Board may approve the by-law and certify the validity of the debentures, notwithstanding any omission, illegality, invalidity or irregularity in the by-law or debentures or in any of the proceedings relating or incidental thereto occurring, had or taken prior or subsequent to the final passing of the by-law or issue of the debentures. R.S.O. 1950, c. 262, s. 61 (1); 1958, c. 74, s. 3.

No ap-  
proval if  
by-law  
quashed, etc.

(2) The Board shall not approve any by-law of a municipality or certify the validity of any debentures issued thereunder if the validity thereof is being questioned in any pending litigation or such by-law has been set aside, quashed or declared to be invalid by any court. 1957, c. 86, s. 3.

Debentures  
to be  
certified

**59.—**(1) Every debenture the validity of which is certified by the Board shall bear the seal and certificate of the Board establishing that the by-law under the authority of which the



debenture is issued has been approved by the Board and that the debenture is issued in conformity therewith.

(2) Notwithstanding subsection 2 of section 12, the certificate may be signed by any member of the Board or by a person specially authorized by the chairman. R.S.O. 1950, c. 262, s. 62.

**60.** The certificate of the Board to the validity of any debenture of a municipality shall be in the following form: Form of certificate

#### THE ONTARIO MUNICIPAL BOARD

In pursuance of *The Ontario Municipal Board Act*, the Board certifies that By-law No..... of the corporation of the..... of....., passed on the..... day of....., 19...., has been approved by the Board, and that the within debenture, issued under the authority of such by-law and in conformity therewith, is valid and binding upon the said corporation and its validity may not be contested or questioned for any cause whatsoever.

Dated this..... day of....., 19.....

(SEAL)

.....  
for the Board.

R.S.O. 1950, c. 262, s. 63.

**61.** Notwithstanding the provisions of any Act, every by-law of a municipality approved by the Board and every debenture issued thereunder bearing the seal and certificate of the Board is for all purposes valid and binding upon the corporation of the municipality and the ratepayers thereof and upon the property liable for any rate imposed under the by-law, and the validity of the by-law and every such debenture shall not be contested or questioned in any manner. R.S.O. 1950, c. 262, s. 64 (1).

**62.** The Board, upon any application of a municipality for approval of the exercise by a municipality of any of its powers, or of the incurring of any debt, or of the issue of any debentures, or of any by-law, shall, before approving the same, make such inquiry into the nature of the power sought to be exercised or undertaking that is proposed to be or has been proceeded with, the necessity or expediency of the same, the financial position and obligations of the municipality, the burden of taxation upon the ratepayers and into all other relative matters, as in the opinion of the Board may appear to be necessary or expedient. R.S.O. 1950, c. 262, s. 65.

**63.—**(1) Where under any general or special Act it is requisite that the assent of the electors of a municipality or of those qualified to vote on money by-laws first be obtained to the exercise by a municipality of any of its powers or the incur-

ring of any debt, issue of any debentures or passing of any by-law the Board shall not approve the exercise of such power, incurring of debt, issue of debentures or the by-law until such assent has been obtained, unless the Board after due inquiry is satisfied that such assent may under all the circumstances properly be dispensed with, and the Board may, in any such case by its order, declare and direct that the assent of the electors or the qualified electors shall not be requisite to be obtained notwithstanding the provisions of such general or special Act.

Public  
hearing

(2) The Board before making any order under subsection 1 shall hold a public hearing after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the matter and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1950, c. 262, s. 66 (1, 2).

Public  
hearing not  
required  
where  
additional  
expenditure  
approved

(3) Notwithstanding subsection 2, where the Board has approved an expenditure for any purpose, it may, without holding a public hearing, dispense with the assent of the electors of a municipality or of those qualified to vote on money by-laws and approve additional expenditures for the same purpose not in excess of 25 per cent of the original expenditure approved. 1956, c. 60, s. 8.

Conditions  
in dis-  
pensing  
with vote

(4) The Board in making any order under subsection 1 dispensing with the necessity for obtaining the assent of the electors or qualified electors may impose such terms, conditions and restrictions not only in respect of the matter in which such order is made, but as to any further or subsequent exercise of any of the powers of the municipality or incurring of any other debt or issue of any other debentures or passing of any other by-law by such municipality as to the Board may seem requisite or expedient. R.S.O. 1950, c. 262, s. 66 (3).

Where  
approval  
of Board  
required for  
undertaking,  
etc.

**64.—(1)** Notwithstanding the provisions of any general or special Act, a municipality shall not,

- (a) authorize; or
- (b) exercise any of its powers to proceed with; or
- (c) provide any moneys for,

any undertaking, work, project, scheme, act, matter or thing, the cost or any portion of the cost of which is to be,

- (d) raised in a subsequent year or years; or
- (e) provided by the issue of debentures,

until the approval of the Board has first been obtained. R.S.O. 1950, c. 262, s. 67 (1).

(2) Subsection 1 does not apply to the exercise of powers to proceed with any of the undertakings, works, projects, schemes, acts, matters or things referred to in subsection 2 of section 286 of *The Municipal Act* except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by any municipality. 1957, c. 86, s. 5.

Application of section R.S.O. 1960, c. 249

(3) The passing of a by-law by a council to authorize or to exercise any of its powers to proceed with, or to provide any money for, any undertaking, work, project, scheme, act, matter or thing referred to in subsection 1 shall not be deemed to be in contravention of subsection 1 if such by-law contains a provision to the effect that the by-law shall not take effect until the approval of the Board under subsection 1 has been obtained. 1958, c. 74, s. 4; 1960, c. 77, s. 3.

By-law passed not to be in contravention of subs. 1

(4) This section applies to the guarantee by a municipality of the debentures, bonds or other securities of any other municipality or of any other person or corporation whatsoever, or of payment of the whole or any part of the sinking fund, or principal of or interest on any such debentures, bonds or other securities, and no guarantee thereof shall be made or entered into, or by-law in that behalf be passed, by any municipality under the provisions of any general or special Act, or of any agreement entered into pursuant thereto, or by-law passed thereunder, until the approval of the Board has first been obtained.

Application of section to municipal guarantees

(5) Notwithstanding the provisions of section 1, the word "municipality" in this section and in section 65 includes a public school board in an unorganized township or in unsurveyed territory, and includes only a local board that may apply to the council that moneys necessary for any purpose mentioned in this section be provided by the issue of debentures of the corporation of the municipality. R.S.O. 1950, c. 262, s. 67 (2, 3).

Interpretation

**65.** No by-law shall be passed by a municipality for any of the purposes mentioned in section 64 until the approval of the Board has first been obtained. R.S.O. 1950, c. 262, s. 68.

Approval of by-laws

**66.** Upon an application being made to the Board for the approval required by section 64, the Board shall proceed to deal with the application in the manner provided by and shall have regard to the matters mentioned in section 62, and may hold such public hearings as to the Board may appear necessary. R.S.O. 1950, c. 262, s. 69.

Inquiry by the Board

**67.** The Board as a condition of giving its approval as required by section 64 may by its order impose such restrictions, limitations and conditions upon the municipality with

Board may impose conditions on giving approval



respect to the matter before the Board or with respect to the current annual or future annual expenditures of the municipality for any purpose or with respect to further issues of debentures by the municipality, and otherwise with respect to the conduct and administration of the affairs of the municipality, as to the Board may appear necessary or expedient. R.S.O. 1950, c. 262, s. 70.

Board not  
required to  
approve

**68.** The Board is not required to give its approval on any application made to it under section 64, and shall not give such approval unless satisfied that the same is justified under all circumstances. R.S.O. 1950, c. 262, s. 71.

Municipality may  
proceed  
upon  
approval

**69.** When the Board has given its approval as required by section 64, the municipality may thereafter proceed in the manner and to the extent provided for by or consequent upon such approval, and for such purposes may exercise all its powers and do all things necessary or incidental thereto, and may pass all requisite by-laws, including debenture by-laws. R.S.O. 1950, c. 262, s. 72.

## PART V

### RAILWAY AND UTILITIES JURISDICTION

Jurisdiction  
of Board:  
railway  
and utility  
matters

**70.** The Board has jurisdiction and power,

complaints  
of breach of  
railway or  
utility  
statutes,  
orders,  
agreements,  
etc.

(a) to inquire into, hear and determine any applications made, proceedings instituted and matters brought before it under the provisions of any general or special Act relating to railways or public utilities or any of them where by such Act any jurisdiction or power is for such purpose conferred on the Board;

(b) to hear and determine any application with respect to any railway or public utility, its construction, maintenance or operation by reason of the contravening or failure to comply on the part of any person, firm, company, corporation or municipality of or with the requirements of this or any other general or special Act, or of any regulation, rule, by-law or order made thereunder, or of any agreement entered into in relation to such railway or public utility, its construction, maintenance or operation;

railway  
and public  
utility rates  
and tolls

(c) to hear and determine any application with respect to any tolls charged by any person, firm, company, corporation or municipality operating a railway or public utility in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust. R.S.O. 1950, c. 262, s. 73.

**71.** The fact that a manager or other official or the liquidator or receiver of a railway or public utility is managing or operating or liquidating it under the authority of any court is not a bar to the exercise by the Board of any jurisdiction or power conferred by this or any other general or special Act, and every such manager, official, liquidator or receiver is bound to manage, operate or liquidate such railway or public utility in accordance with this Act and under the orders and directions of the Board, whether general or referring particularly to such railway or public utility, and he and every person acting under him shall obey all orders and directions of the Board with respect to such railway or public utility and be subject to have them enforced against him by the Board, notwithstanding his authority or any order of the court under which he is appointed or acts. R.S.O. 1950, c. 262, s. 74.

Jurisdiction  
over  
receivers,  
liquidators,  
etc., of  
railway or  
public  
utility

**72.—(1)** Wherever,

Powers, etc.,  
transferred  
to Board

(a) any power or authority is given to or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document;

(b) by any Act of the Legislature the location of any line of railway or the route and course thereof, or the maps, plans and specifications, or any part of the equipment are subject to the approval of the Lieutenant Governor in Council or of any of his Ministers,

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

(2) Whenever in any Act it is provided that any railway company shall, during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. R.S.O. 1950, c. 262, s. 75.

Furnishing  
information

**73.** The decision of the Board as to whether any person, firm, company, corporation or municipality is or is not a party interested within the meaning of any of the provisions of this Part is binding and conclusive upon such persons, firms, companies, corporations or municipalities. R.S.O. 1950, c. 262, s. 76.

Who is  
a "party  
interested"

Super-  
intending  
accounts of  
railways  
and public  
utilities  
operated  
by muni-  
cipalities

**74.**—(1) The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways and public utilities that are operated by or under the control of a municipality or a local board, and may require from it such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

Inquiry  
and report  
as to rates  
charged by  
public  
utilities

(2) The Board may from time to time inquire and report as to whether such railway or public utility is operated in such a way that the rates charged in respect thereof are sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

Exception

(3) This section does not apply to a public utility for the development or distribution of electrical power or energy obtained directly or indirectly from The Hydro-Electric Power Commission of Ontario. R.S.O. 1950, c. 262, s. 77.

## PART VI

### PRACTICE AND PROCEDURE

#### NOTICES AND EVIDENCE

Notice,  
requisites

**75.** Any notice required or authorized to be given in writing,

- (a) by the Board, may be signed by the chairman, a vice-chairman, or the secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. R.S.O. 1950, c. 262, s. 78.

Notices,  
how served

**76.**—(1) Any notice required to be given to a company, municipality, corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the



notice, or a copy thereof, within the time, if any, limited therefor,

- (a) in the case of a railway company, to the president, <sup>railway company</sup> vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;
- (b) in the case of a municipality, to the head of the <sup>municipality</sup> municipality, or to the clerk;
- (c) in the case of any other company or corporation, to <sup>other companies</sup> the president, vice-president, manager or secretary, or to some adult person in its employ at its head office;
- (d) in the case of a firm or co-partnership, to any member <sup>co-partnership or firm</sup> thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and
- (e) in the case of an individual, to him, or, at his last <sup>individuals</sup> known place of abode, to any adult member of his household, or at his office or place of business, to a clerk in his employ. R.S.O. 1950, c. 262, s. 79 (1).

(2) If, in any case within the jurisdiction of the Board, <sup>Service by publication</sup> it is made to appear to the satisfaction of the Board that service of any such notice cannot conveniently be made in the manner provided in subsection 1, the Board may order and allow such service to be made in such manner as the Board directs, and such publication in each case shall be deemed to be equivalent to service in the manner provided in subsection 1. R.S.O. 1950, c. 262, s. 79 (2); 1952, c. 71, s. 2.

(3) Any regulation, order, direction, decision, report or <sup>Service of other documents</sup> other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section. R.S.O. 1950, c. 262, s. 79 (3).

**77.** Every company, municipality or corporation shall, as <sup>Duty of company on receipt of notice or order</sup> soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties that are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. R.S.O. 1950, c. 262, s. 80.

Duty of  
sheriffs, etc.

**78.** Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the secretary, be paid by the county interested the like fees as for similar services at the sitting of the Supreme Court for the trial of actions, and such fees shall be charged as expenses of the administration of justice. R.S.O. 1950, c. 262, s. 81.

Effect of  
documents  
issued by  
company

**79.** Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of the document by the company, and of the contents thereof, without any further proof than the mere production of the document. R.S.O. 1950, c. 262, s. 82.

Evidence of  
documents

**80.**—(1) Every document purporting to be signed by a member of the Board or the secretary or a signing officer of the Board, or by an inspecting engineer, is, without proof of the signature, *prima facie* evidence that the document was duly signed, and is sufficient notice to the company and all parties interested, if served in the manner provided by section 76 for service of notice, that the document was duly signed and issued by the Board, or inspecting engineer, as the case may be. R.S.O. 1950, c. 262, s. 83 (1); 1956, c. 60, s. 9.

Evidence of  
regulations,  
etc.

(2) If the document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it is *prima facie* evidence of the regulation, order, direction, decision or report, and, when served in the manner provided by section 76, is sufficient notice of the regulation, order, direction, decision or report from the time of such service. R.S.O. 1950, c. 262, s. 83 (2).

Certified  
plan, etc.,  
*prima facie*  
evidence

**81.**—(1) Any document purporting to be certified by the secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, is, without proof of signature of the secretary, *prima facie* evidence of the original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also, if the certificate states the time when the original was so deposited, that the same was deposited at the time so stated.

Certified  
copies of  
documents  
of Board

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board,

purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, is *prima facie* evidence of the regulation, order or document, without proof of the signature of the secretary. R.S.O. 1950, c. 262, s. 84.

**82.** Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in *The Ontario Gazette*, and while the same remains in force, has the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. R.S.O. 1950, c. 262, s. 85. Publication of regulations, orders, etc.

**83.** Unless otherwise provided, ten days notice of any application to the Board, or of any hearing by the Board, is sufficient, but the Board may in any case direct longer or permit shorter notice of the application. R.S.O. 1950, c. 262, s. 86. Notice of application

**84.—(1)** When the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties, and such order or decision is as valid and shall take effect in all respects as if made on due notice. Procedure in urgent cases when no notice given

**(2)** Any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of the order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind the order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind the order or decision, or dismiss the application, as may seem to it just. R.S.O. 1950, c. 262, s. 87. When rehearing in such cases may be had

#### ORDERS OF COURT

**85.—(1)** A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Registrar of the Supreme Court, and thereupon becomes and is enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may nevertheless be rescinded or varied by the Board. Enforcement of orders



Board  
may select  
method of  
enforcing  
order

(2) It is optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. R.S.O. 1950, c. 262, s. 88.

#### TERMS OF ORDERS

Contingent  
orders

**86.**—(1) The Board may direct in any order that the order, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition specified in the order, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of the order, shall have force for a limited time, or until the happening of any specified event.

Interim  
orders

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. R.S.O. 1950, c. 262, s. 89.

May grant  
partial or  
other relief  
than that  
applied for

**87.** Upon any application to the Board, the Board may make an order granting the whole, or part only, of the application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may seem just and proper as fully in all respects as if the application had been for such partial, other, or further relief. R.S.O. 1950, c. 262, s. 90.

Interim  
*ex parte*  
orders

**88.** The Board may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done that the Board would be empowered on application, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. R.S.O. 1950, c. 262, s. 91.

Extension  
of time  
specified in  
order

**89.** When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case in its opinion so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. R.S.O. 1950, c. 262, s. 92.

#### GENERAL RULES

Power to  
make rules

**90.** The Board may make general rules regulating its practice and procedure. R.S.O. 1950, c. 262, s. 93.

## OTHER PROVISIONS

**91.** An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make the order. R.S.O. 1950, c. 262, s. 94. Presumption of jurisdiction to make order

**92.**—(1) In determining any question of fact the Board is not concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the determination of such fact, but such finding or judgment is, in proceedings before the Board, *prima facie* evidence only. Effect of finding of fact in another court

(2) Except as otherwise provided in this Act, the pendency of any action, prosecution or proceeding in any other court involving questions of fact does not deprive the Board of jurisdiction to hear and determine the same questions of fact. Jurisdiction not affected

(3) The finding or determination of the Board upon any question of fact within its jurisdiction is binding and conclusive. R.S.O. 1950, c. 262, s. 95. Effect of finding of fact

**93.**—(1) The Board may, at the request of the Lieutenant Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the Board, is a question of law. Stating case for opinion of Court of Appeal

(2) The Court of Appeal shall hear and determine the special case and remit it to the Board with the opinion of the Court thereon. R.S.O. 1950, c. 262, s. 96. Action thereon

**94.** The Lieutenant Governor in Council may, at any time, upon petition of any party, person or company interested, all parties interested first having been heard, vary or rescind any order, decision, rule or regulation of the Board whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application, and any order that the Lieutenant Governor in Council may make with respect thereto is binding upon the Board and upon all parties. R.S.O. 1950, c. 262, s. 97. Lieutenant Governor in Council may rescind orders or regulations

**95.**—(1) Subject to the provisions of Part IV, an appeal lies from the Board to the Court of Appeal upon a question of jurisdiction or upon any question of law, but such appeal does not lie unless leave to appeal is obtained from the Court within one month after the making of the order or decision sought to be appealed from or within such further time as the Court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal. Appeal on questions of jurisdiction

Notice  
of appeal

(2) Upon such leave being obtained, the Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the Board, and to the secretary, notice in writing that the case has been so set down, and the appeal shall be heard by such Court as speedily as practicable.

Opinion  
of Court

(3) On the hearing of any appeal, the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

Board may  
be heard by  
counsel

(4) The Board is entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

Rules of  
court as to  
costs, etc.

(5) The Supreme Court has power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a judge of the Supreme Court to the Court of Appeal shall be applicable to appeals under this Act.

Members of  
Board not  
liable for  
costs

(6) Neither the Board nor any member of the Board is in any case liable to any costs by reason or in respect of any appeal or application under this section. R.S.O. 1950, c. 262, s. 98 (1-6).

Decisions of  
Board to be  
final

(7) Save as provided in this section and in sections 42 and 94,

(a) every decision or order of the Board is final; and

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. R.S.O. 1950, c. 262, s. 98 (7); 1956, c. 60, s. 10.

Costs

**96.**—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

Taxation

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

Scale

(3) The Board may prescribe a scale under which such costs shall be taxed. R.S.O. 1950, c. 262, s. 99.



**97.** Every person summoned to attend before the Board or before any inspecting engineer, or person appointed to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1950, c. 262, s. 100. <sup>Witness fees</sup>

**98.**—(1) The Board may charge and collect such fees as to it may seem proper for all copies of documents, maps or plans, and all certificates as to the same. <sup>Fees for copies, certificates, etc.</sup>

(2) All fees charged and collected by the Board shall be paid over quarterly, accompanied by a detailed statement thereof, to the Treasurer of Ontario. R.S.O. 1950, c. 262, s. 101. <sup>Payment over to Province</sup>

**99.** There shall be paid upon every application to the Board or every order thereof such fee as the Board may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such fee shall be paid in the first instance by the applicant and is a debt due by the applicant to Her Majesty and a summary order may be made by the Board for payment thereof, and such summary order may be made an order of the Supreme Court. R.S.O. 1950, c. 262, s. 102. <sup>Fees of Board</sup>

## PART VII

### MISCELLANEOUS

#### ANNUAL REPORT OF BOARD

**100.**—(1) The Board shall, after the close of each calendar year, make an annual report upon the affairs of the Board to the Minister of Municipal Affairs who shall file it with the Provincial Secretary. <sup>Annual report</sup>

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1952, c. 71, s. 3. <sup>Tabling</sup>

**101.** If any officer or servant of the Board, or any person having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained the same or knowing the same to have been derived from such return or evidence, he is guilty of an offence and on summary <sup>Publishing information without leave</sup>

conviction is liable to a fine of not more than \$500 and is also liable to imprisonment for a term of not more than six months. R.S.O. 1950, c. 262, s. 104.

Powers of  
H.E.P.C.

R.S.O. 1960,  
c. 300

**102.** Nothing in this Act confers upon the Board any jurisdiction as to matters that, under *The Power Commission Act*, are within the exclusive jurisdiction of The Hydro-Electric Power Commission of Ontario. R.S.O. 1950, c. 262, s. 105.

## CHAPTER 275

## The Ontario Municipal Improvement Corporation Act

**1.** In this Act, “municipality” means a county, city, town, village, township, improvement district or school board, and “municipal” has a corresponding meaning. 1955, c. 57, s. 1. Interpretation

**2.—(1)** The Ontario Municipal Improvement Corporation, constituted on behalf of Her Majesty in right of Ontario as a body corporate and politic, without share capital, is continued as such and has as its object the purchase from municipalities in Ontario of debentures issued by them for any of the following municipal works and undertakings, Corporation continued; objects

- (a) waterworks and water supply distribution systems;
- (b) sewage works, treatment works, sewer system or sewer, as defined in section 380 of *The Municipal Act*; R.S.O. 1960 c. 249
- (c) plants and works for the incineration of garbage, refuse and wastes; and
- (d) drainage works under *The Municipal Drainage Act*; R.S.O. 1960, c. 252
- (e) school board undertakings. R.S.O. 1950, c. 263, s. 1 (1); 1955, c. 57, ss. 1, 2 (1).

(2) The Ontario Municipal Improvement Corporation, hereinafter called the Corporation, shall be composed of not less than three and not more than five members appointed by the Lieutenant Governor in Council. Membership

(3) *The Corporations Act* does not apply to the Corporation. 1955, c. 57, s. 2 (2). Application of R.S.O. 1960, c. 71

(4) The members for the time being of the Corporation shall form and be its board of directors and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board. R.S.O. 1950, c. 263, s. 2 (3); 1955, c. 57, s. 2 (3). Board of Directors

(5) Subject to the regulations, the affairs of the Corporation are under the management and control of the board of directors and in the absence of the chairman, or if at any time that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman. Management



**Administration** (6) In the administration of the affairs of the Corporation, the board of directors shall be assisted by such officers and other employees in the public service of Ontario as the Treasurer of Ontario may assign for the purpose. R.S.O. 1950, c. 263, s. 2 (4, 5).

**Remuneration** (7) The Corporation may pay such of its members as are not officers in the public service of Ontario such remuneration and expense allowance as are from time to time fixed by the Lieutenant Governor in Council. 1955, c. 57, s. 2 (4).

**Quorum** (8) A majority of the directors for the time being constitutes a quorum at meetings of the board of directors. 1957, c. 87, s. 1.

**Borrowing powers** **3.—**(1) Subject to the approval of the Lieutenant Governor in Council and to section 13, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation may deem requisite for any of the purposes of the Corporation in any one or more, or partly in one and partly in another, of the following ways:

- (a) by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the Corporation may determine; and
- (b) by temporary loans or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the Corporation may determine.

**Purposes of Corporation** (2) The purposes of the Corporation, without limiting the generality thereof, include,

- (a) the carrying out of the object of the Corporation mentioned in section 2;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation;
- (c) the repayment in whole or in part of any advances made by Ontario to the Corporation or of any securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances; and
- (d) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security. Sale, etc., of Corporation's securities

(4) A recital or declaration in any resolution or minute of the Corporation authorizing the issue and sale of debentures, bills or notes of the Corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the Corporation in the amount authorized is conclusive evidence to that effect. Authorization

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the secretary or other officer of the Corporation and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by the secretary or other officer of the Corporation. Sealing, signing, etc.

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. 1957, c. 87, s. 2, *part.* Mechanical reproduction of seal and signature authorized

4. Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at such price or prices and on such terms and conditions as the Corporation may determine at the time of the issue thereof. 1957, c. 87, s. 2, *part.* Securities of Corporation redeemable in advance

5. Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board may require. R.S.O. 1950, c. 263, s. 6. Lost debentures

6.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act. Guarantee of payment by Province

Form of  
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity of  
guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province and is not open to question upon any ground whatsoever.

Guaranteed  
debentures,  
etc., to be  
indefeasible

(4) Any debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by the Province under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. R.S.O. 1950, c. 263, s. 7.

Trustees,  
etc., invest-  
ments in  
debentures

7. Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. R.S.O. 1950, c. 263, s. 8.

Purchase of  
municipal  
debentures

8.—(1) The Corporation, with the approval of the Lieutenant Governor in Council and subject to the regulations, may from time to time purchase from any municipality in Ontario debentures issued by the municipality for any of the purposes specified in subsection 1 of section 2.

Approval  
and valida-  
tion  
required

(2) The Corporation shall not purchase any municipal debentures under the authority of this Act until,

R.S.O. 1960,  
c. 274

(a) the Ontario Municipal Board has issued its order pursuant to section 64 of *The Ontario Municipal Board Act* authorizing the municipality to proceed with the work or undertaking with respect to which the debentures are required; and

R.S.O. 1960,  
c. 274

(b) the municipality has had the debentures validated by the Ontario Municipal Board under sections 58 to 60 of *The Ontario Municipal Board Act*. R.S.O. 1950, c. 263, s. 9.

Municipal  
debentures  
to rank  
*pari passu*  
R.S.O. 1960,  
c. 335

9. Notwithstanding *The Public Utilities Act*, every debenture of a municipality purchased by the Corporation under the authority of this Act, with respect to payment of principal and interest thereon, ranks *pari passu* with all other debentures of that municipality and the payment of principal and interest thereon. R.S.O. 1950, c. 263, s. 10.

Sale, etc.,  
of municipal  
debentures  
purchased  
by Cor-  
poration

10. The Corporation has power, with the approval of the Treasurer of Ontario and subject to the regulations, to sell, hypothecate or otherwise dispose of any debentures purchased by the Corporation under the authority of this Act. R.S.O. 1950, c. 263, s. 11.



**11.** The books and accounts of the Corporation shall be <sup>Audit</sup> audited annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council may designate and such auditor shall make an annual report of the audit to the Treasurer of Ontario, and the Treasurer shall table the report in the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 263, s. 12.

**12.—(1)** The Lieutenant Governor in Council may authorize the Treasurer of Ontario, <sup>Sale of Corporation's securities to Province and provincial advances to Corporation authorized</sup>

- (a) to purchase any debentures, bills or notes of the Corporation; and
- (b) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may deem expedient.

(2) The moneys required for the purposes of subsection 1 <sup>Idem</sup> shall be paid out of the Consolidated Revenue Fund. 1957, c. 87, s. 3, *part*.

**13.—(1)** The Corporation shall not borrow or raise by way of loan any sums of money if, after giving effect to such borrowing or loan, the aggregate principal amount of the outstanding debentures, bills and notes issued by the Corporation, of temporary loans raised by the Corporation and of outstanding advances to the Corporation from the Treasurer of Ontario, would exceed \$150,000,000. <sup>Limit of borrowing powers</sup>

(2) This section does not apply to moneys borrowed or raised by way of loan for the purposes mentioned in clauses *b* and *c* of subsection 2 of section 3. 1957, c. 87, s. 3, *part*. <sup>Application of section</sup>

**14.** The Lieutenant Governor in Council may make regulations governing, <sup>Regulations</sup>

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the arrangements that the Corporation may make for purchase of debentures of municipalities and the purchase of such debentures;
- (c) the mode in which municipalities may apply to the Corporation for its purchase of their debentures and the forms, records and proofs to be furnished with such applications;
- (d) the conditions to be imposed in regard to the purchase by the Corporation of debentures of municipalities;

- (e) the consideration and granting by the Corporation of applications for its purchase of debentures of municipalities;
- (f) the sale, hypothecation or other disposition by the Corporation of any debentures of municipalities purchased by the Corporation;
- (g) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 263, s. 13; 1957, c. 87, s. 4.

Administra-  
tion of Act

**15.** The Treasurer of Ontario shall administer this Act and the regulations made under this Act. R.S.O. 1950, c. 263, s. 14.

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## CHAPTER 276

**The Ontario Northland Transportation  
Commission Act**

**1.** In this Act, "Commission" means the Ontario Northland Transportation Commission. R.S.O. 1950, c. 264, s. 1. Interpre-  
tation

**2.**—(1) The body corporate heretofore established under *The Temiskaming and Northern Ontario Railway Act* is continued and shall be known as the Ontario Northland Transportation Commission and shall be composed of one or more persons appointed by the Lieutenant Governor in Council. Commis-  
sion, how  
composed  
1902, c. 9

(2) A majority of the members of the Commission forms a quorum. R.S.O. 1950, c. 264, s. 2. Quorum

**3.** Each of the commissioners shall hold office during the pleasure of the Lieutenant Governor in Council, and the Lieutenant Governor in Council upon the death, resignation or removal from office of any commissioner may appoint another person to fill the vacancy thereby created. R.S.O. 1950, c. 264, s. 3. Tenure of  
office

**4.** Where the Commission is composed of more than one person, the Lieutenant Governor in Council may from time to time designate one of the commissioners to be chairman of the Commission and one of the commissioners to be vice-chairman of the Commission. R.S.O. 1950, c. 264, s. 4. Chairman,  
vice-  
chairman

**5.** The chairman and each of the commissioners shall receive his actual travelling expenses and other disbursements properly incurred in discharging his duties, and such salary or remuneration as the Lieutenant Governor in Council may direct. R.S.O. 1950, c. 264, s. 5. Travelling  
expenses  
and honorar-  
ium

**6.**—(1) The Lieutenant Governor in Council may appoint an industrial commissioner who shall be paid such salary or other remuneration by the Commission as may be determined by the Lieutenant Governor in Council, whose duty it is to assist in the promotion of industrial activity in that part of Ontario served by the Ontario Northland Railway. Industrial  
commis-  
sioner,  
appoint-  
ment



Industrial  
commis-  
sioner may  
be member  
of Assembly  
R.S.O. 1960,  
c. 208

(2) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the industrial commissioner, if a member of the Assembly, is not avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor does he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1950, c. 264, s. 6.

Railways,  
etc., vested  
in Commis-  
sion

7.—(1) The railways and branch lines heretofore constructed by the Commission and all other works constructed and used in connection therewith, and any other railways, branches and other works constructed by the Commission under the authority of this Act, are vested in the Commission for the purposes herein set forth.

Powers of  
Commission

(2) Subject to the approval and direction of the Lieutenant Governor in Council, the Commission may,

- (a) construct, equip, maintain and operate a line or lines of railway from the present northern terminal of the railway to some point on James Bay or the vicinity thereof;
- (b) construct, complete, equip, maintain and operate such spurs and branches from any of the lines of railway of the Commission as may be deemed necessary, not exceeding twenty miles in length in any one place, and may exercise the like powers with respect to such spurs and branches as it has exercised and may exercise with respect to any such lines;
- (c) construct, complete, equip, maintain and operate telephone and telegraph lines and with respect thereto has and shall exercise all the powers that may be exercised by a railway company under *The Railways Act* or by any general Act of the Legislature affecting railways for the time being in force, or by a telephone or telegraph company incorporated under the general laws of Ontario;
- (d) purchase or otherwise acquire motor vehicles and trailers as defined by *The Highway Traffic Act*, aircraft and lines of buses, coaches, trucks and aircraft, and may operate, maintain, control and manage such vehicles, trailers, aircraft and lines for the purpose of carrying on, upon the highway and elsewhere, the business of a public carrier of passengers and freight;
- (e) purchase or otherwise acquire, construct, complete, equip, maintain and operate hotels, tourist resorts,

R.S.O. 1950,  
c. 331

R.S.O. 1960,  
c. 172

restaurants, boats and vessels and lines of boats and vessels;

- (f) purchase or otherwise acquire, construct, complete, equip, maintain or operate such undertakings and provide such services in that part of Ontario that is served by the Commission, as the Commission may deem to be for the benefit of travellers therein or residents thereof;
- (g) make financial contributions to or for undertakings or services that are maintained or provided in that part of Ontario which is served by the Commission for the benefit of travellers therein or residents thereof. R.S.O. 1950, c. 264, s. 7.

**8.** Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations for establishing and administering, through a board or otherwise, a pension fund for the payment of superannuation or disability allowances to the employees or members of the Commission or any class thereof. R.S.O. 1950, c. 264, s. 8.

**9.** The provisions of *The Public Commercial Vehicles Act* and sections 2 to 12 and 20 to 22 of *The Public Vehicles Act* and paragraph 1 of section 395 of *The Municipal Act* do not apply to or are not binding upon the Commission. R.S.O. 1950, c. 264, s. 9.

**10.** Subject to the approval of the Lieutenant Governor in Council, the Commission may purchase or otherwise acquire or promote and cause to be incorporated and organized a company or companies under any public or private Act of any province or of Canada for the exercise of all or any of the powers conferred upon the Commission, or for the better operation, management or control of its undertaking or any part thereof, and every such company possesses and enjoys all the powers, rights, remedies and immunities conferred by law or by this Act upon the Commission. R.S.O. 1950, c. 264, s. 10.

**11.** Subject to the approval of the Lieutenant Governor in Council, the Commission may enter into an agreement with the Nipissing Central Railway Company to acquire, lease or otherwise deal with the railway and the undertakings of the Company in whole or in part, and upon such acquisition, lease or other dealing, may operate such railway and its undertakings in the same manner and, subject to the agreement, to the same extent as if such railway and undertakings formed part of the Ontario Northland Railway. R.S.O. 1950, c. 264, s. 11.

Approval of  
Lieutenant  
Governor  
in Council

**12.** The location of the lines of railway and other works of the Commission and of the branches, and the plans of all works proposed, and the by-laws of the Commission are subject to the approval of the Lieutenant Governor in Council. R.S.O. 1950, c. 264, s. 12.

Tolls and  
fares

**13.—(1)** The Commission may make regulations fixing the fares and tolls to be charged for all traffic carried and with respect to any telephone or telegraph lines operated by the Commission as herein authorized.

Cancellation  
or amend-  
ment by  
Government

**(2)** The regulations so made are at all times subject to cancellation or amendment at the direction of the Lieutenant Governor in Council.

Regulations  
to be  
deemed  
administra-  
tive

**(3)** The regulations so made shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1950, c. 264, s. 13.

Agreement  
with  
railway  
companies

**14.—(1)** Subject to the approval and direction of the Lieutenant Governor in Council, the Commission may enter into an agreement with any railway company to provide and secure such reciprocal running powers, traffic arrangements and other rights over and in respect of the railway of such company and the railway constructed or to be constructed by the Commission as will afford to such company and to the Commission reasonable and proper facilities for mutually exercising such running powers, fair and reasonable traffic arrangements and equitable mileage rates between the Commission and such company.

Approval  
of Assembly  
to lease  
of lines

**(2)** No lease by the Commission of any of the lines of the railway has effect until approved of by resolution of the Assembly except a lease made with the approval of the Lieutenant Governor in Council of a spur, branch or portion of line not exceeding ten miles in any one place. R.S.O. 1950, c. 264, s. 14.

Motive  
power

**15.** The Commission may operate the railway or any section thereof by electricity or by any other motive power. R.S.O. 1950, c. 264, s. 15.

Power  
houses,  
elevators,  
docks,  
vessels, etc.

**16.** The Commission may purchase land for and erect power houses, warehouses, elevators, docks, stations, workshops, garages, hangars, air harbours and landing grounds, offices and any other works necessary for the exercise of the powers conferred upon the Commission and may sell and convey any such land as may from time to time be found superfluous for any such purpose. R.S.O. 1950, c. 264, s. 16.



**17.** The Commission may erect and maintain all necessary and convenient buildings, garages, hangars, air harbours and landing grounds, filling stations, stations, depots, wharves and fixtures, and may from time to time alter, repair or enlarge the same, and may purchase and acquire motors, motor vehicles, trailers, aircraft, engines, carriages, wagons and other machinery and contrivances necessary for the working of the railway and its buses, trucks and aircraft lines and the accommodation and use of the passengers, freight and business of the Commission. R.S.O. 1950, c. 264, s. 17.

**18.** The Commission may sell or otherwise dispose of any motor vehicles, aircraft, equipment, boats, vessels, works or other property as may from time to time be found superfluous or unfit for the purposes of the Commission. R.S.O. 1950, c. 264, s. 18.

**19.** The Commission may, subject to the approval of the Lieutenant Governor in Council, construct, maintain and operate works for the production of electricity or other motive power for the railway, and for lighting and heating the rolling stock and other property of the railway, and may from time to time sell or lease any such electricity or other motive power not required for the purposes aforesaid to any person or corporation and may acquire and hold any property necessary for such purposes. R.S.O. 1950, c. 264, s. 19.

**20.** The Commission may acquire the right to convey and transmit electric or other power required for the working of the railway or any other works of the Commission, and lighting or heating the same over, through or under land other than the land of the Commission, and may purchase or otherwise acquire the right to lay conduits under, or erect poles or wires on or over such land as may be determined by the Commission, and along and upon any of the public highways or across any of the waters in Ontario, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires for the lines, or the conduits for such electricity or other power upon and subject to such agreement in respect thereto as shall first be made between the Commission and any private owners of the land affected, or failing such agreement subject to the right of expropriation as provided in section 24. R.S.O. 1950, c. 264, s. 20.

**21.—(1)** The Lieutenant Governor in Council may by order in council transfer to the Commission any ungranted land in Ontario that in the opinion of the Commission is required for the railway or for convenient and necessary right of way, sidings, yards or stations or for the supply, for

the purposes of the railway, of stone, gravel, earth, sand or water, or for any other purpose or use in connection with the railway or other works of the Commission.

Registration  
of order  
making  
transfer

(2) Registration of a certified copy of any such order in council in the registry office or offices of land titles, as the case may be, for the registry district in which the land is situate, vests in the Commission as trustee for Ontario, the land described in such order in council. R.S.O. 1950, c. 264, s. 21.

Appoint-  
ment of  
officers and  
employees

**22.** Subject to any general regulation that may be made by the Lieutenant Governor in Council, the Commission may from time to time appoint such officers and employees as the Commission may deem necessary for the proper conduct of the business of the Commission, and may prescribe their duties and fix their remuneration. R.S.O. 1950, c. 264, s. 22.

Security for  
safekeeping  
of funds

**23.** Security shall be given by any person entrusted by the Commission with the custody and control of money by virtue of his employment, in such manner and to such amount as may be prescribed by the Commission. R.S.O. 1950, c. 264, s. 23.

General  
powers of  
Commission

R.S.O. 1950,  
c. 331

**24.—**(1) The Commission has in respect of the railway and works, in addition to all the powers, rights, remedies and immunities conferred by this Act, all the powers, rights, remedies and immunities conferred upon any railway company by *The Railways Act*, or by any general Act of the Legislature affecting railways for the time being in force, but *The Railways Act* or any other such Act does not in other respects apply to the railway or is not binding upon the Commission.

Expropria-  
tion of ease-  
ments, etc.

(2) The Commission may from time to time, at its option, in lieu of expropriating land under any such general railway Act, expropriate such easements, rights of user and rights of support as is indicated in any notice to be given by the Commission in that behalf, and in any such case the compensation to the owners or other persons interested in any such land shall be reasonable compensation for the easements, rights of user and rights of support.

Alternative  
method of  
expropria-  
tion

R.S.O. 1960,  
c. 338

(3) In lieu of proceeding in the manner provided by *The Railways Act* or any other general Act of the Legislature affecting railways, the Commission may at its option acquire and expropriate any such lands, easements, rights of user and rights of support in the same manner *mutatis mutandis* as is provided in the case of land or property taken by the Crown as represented by the Minister of Public Works under *The Public Works Act*, and any claim for compensation for any

such lands, easements, rights of user or right of support shall in that case be determined in the manner provided by *The Public Works Act*.

(4) The railway of the Commission, including any branch lines, spurs or sidings, may be carried along or across existing highways upon leave therefor having been first obtained from the Ontario Municipal Board, and sections 118 to 128 of *The Railways Act* apply to any such occupation of existing highways, and to the construction and use of any such railways carried along or across the same and to any application for such leave.

(5) Sections 285, 287 and 291 to 295 of *The Railways Act*, in respect of the Commission and its railway and the works thereof, apply thereto and to persons charged with offences or subject to the penalties therein mentioned in the same manner and to the same extent, *mutatis mutandis*, as if such sections had been enacted in this Act and formed part thereof.

(6) The Commission may appoint constables, and for the purposes mentioned in *The Railways Act* every person appointed by the Commission as a constable, and every conductor of a train of the Commission carrying passengers has in respect of its duties, all the powers and rights conferred upon railway constables and conductors of passenger trains, respectively, by *The Railways Act* or by any other general Act affecting such officials for the time being in force, and the provisions of *The Public Authorities Protection Act* respecting constables, *mutatis mutandis*, apply to any such constable and conductor. R.S.O. 1950, c. 264, s. 24.

**25.** Where in this Act the approval or consent of the Lieutenant Governor in Council is made a condition precedent to the exercise of any power conferred on the Commission, such power may be exercised by any company which the Commission may purchase or otherwise acquire or cause to be incorporated providing the approval or consent of the Lieutenant Governor in Council is obtained. R.S.O. 1950, c. 264, s. 25.

**26.** The railway shall as far as practicable be constructed, equipped and operated with railway supplies and rolling stock made, purchased or procured in Canada, if they can be obtained as cheaply and upon as good terms in Canada as elsewhere, having regard to quality. R.S.O. 1950, c. 264, s. 26.

**27.** No person shall be employed in the construction of the railway and works in contravention of *The Alien Labour Act* (Canada) or the provisions of any general railway Act of

Carrying  
railways  
over high-  
ways

Application  
of R.S.O.  
1950, c. 331

Powers of  
constables  
and  
conductors

R.S.O. 1960,  
c. 318

Approval of  
Lieutenant  
Governor  
in Council

Supplies  
and rolling  
stock to be  
purchased  
in Canada

Employ-  
ment of  
aliens in  
construction  
prohibited  
R.S.C. 1952,  
o. 7



Ontario respecting the employment of alien labour. R.S.O. 1950, c. 264, s. 27.

Current rate  
of wages to  
be paid

**28.** The workmen, labourers and servants employed in or about the construction or operation of the railway and works shall be paid such rates of wages as may be concurrently payable to workmen, labourers and servants engaged in similar occupations in the districts in which the railway and works are constructed and operated. R.S.O. 1950, c. 264, s. 28.

Transfer of  
lands to  
Commission  
for town  
sites, etc.

**29.**—(1) The Lieutenant Governor in Council may from time to time by order in council transfer to the Commission for town sites, portions of the ungranted land of Ontario along the line of railway adjacent to stations or proposed stations, and the registration of a certified copy of any such order in council in the registry office or office of land titles, as the case may be, for the registry districts in which the land is situate vests in the Commission, as trustee for Ontario, the land described in any such order in council.

Acquiring  
other lands  
for same  
purpose

(2) The Commission may for the same purpose from time to time acquire other land so situate by the same means as it is authorized to acquire land for right of way and station grounds, and has all the rights and powers with reference to the acquisition thereof by expropriation or otherwise as it has with reference to the acquisition of land for right of way, but the land acquired for town sites shall not exceed 1,000 acres for any one site.

Powers of  
Commission  
as to  
disposing  
of lands

(3) The Commission may from time to time lay out, sell, lease or otherwise dispose of any part of such land as it may think proper, and may take mortgages or other securities for any unpaid purchase money. R.S.O. 1950, c. 264, s. 29.

Minerals  
and mining  
rights

**30.** Subject to any general regulation that may be made by the Lieutenant Governor in Council, the Commission may from time to time sell, lease or otherwise deal with mines, minerals and mining rights upon or under any portion or portions of the right of way, town sites or other lands now vested and hereafter vested in the Commission. R.S.O. 1950, c. 264, s. 30.

Dedication  
of highways  
not to affect  
mining  
rights

**31.** The laying out, whether by plan or otherwise, or the dedication in any manner of any land within any town site as or for public streets or highways shall not be deemed to revest in the Crown, or to vest in the corporation of the municipality in which the town site is situate, any mines, minerals or mining rights theretofore granted by the Crown to the Commission or to any other person on or under any such

land so laid out or dedicated, but the Commission or such other grantees of the mines, minerals and mining rights on or under the land so laid out or dedicated have the right from time to time to carry on mining operations on or under such land, or to sell, lease or otherwise deal with the mines, minerals and mining rights on or under such land, subject, however, to the obligation of all parties actually conducting mining operations on or under any such land, whether as owners, lessees or otherwise, to conduct such mining operations in such way as will not interfere with public travel upon such streets and highways. R.S.O. 1950, c. 264, s. 31.

**32.** No such mining operations shall at any time be begun or carried on upon or under any land so laid out or dedicated as public streets or highways until after the person, whether as owner, lessee or otherwise, proposing to carry on such mining operations, has submitted to the council of the municipality in which the streets or highways are situate proper plans of the proposed mining operations with all necessary specifications and details, nor until the plans have been approved in writing by the engineer of the municipality or an engineer appointed by the corporation of the municipality for that purpose, and may thereafter be carried on in strict conformity to the plans and not otherwise. R.S.O. 1950, c. 264, s. 32.

**33.**—(1) The Commission, and any or all of the commissioners or any officer of the Commission designated by the Commission for that purpose, may hold the shares of the Nipissing Central Railway Company or of any company purchased or otherwise acquired or caused to be incorporated by the Commission under the authority of this Act, in trust for Ontario, and may exercise all the rights of shareholders in respect of the shares so held by them.

(2) The Commission may advance to the Nipissing Central Railway Company such sums as may be required from time to time for the maintenance and operation of the line of railway of the company, or for the purchase, construction, repair and maintenance of the equipment thereof.

(3) The Commission, with the approval of the Lieutenant Governor in Council, may also advance to the Nipissing Central Railway Company such sums as may from time to time be required for the construction and completion of the line or lines of railway of the company.

(4) The Commission may guarantee the performance of any or all obligations and undertakings of the Nipissing Central Railway Company or of any company purchased or otherwise acquired or caused to be incorporated by the Com-

mission, and may guarantee the repayment of any advances made to any such company for the purposes of its obligations and undertakings or any of them, but no such guarantee shall be made either for the performance of obligations for construction or the repayment of moneys in respect of obligations for construction until such guarantee has been authorized by the Lieutenant Governor in Council.

Commission  
authorized  
to advance  
funds to  
subsidiaries

(5) The Commission, with the approval of the Lieutenant Governor in Council, may advance to any company purchased or otherwise acquired or caused to be incorporated by the Commission, such sums as may be required for the obligations and undertakings of the company. R.S.O. 1950, c. 264, s. 33.

Commission  
authorized  
to issue  
bonds, etc.

**34.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may borrow money from time to time for carrying out its purposes, and may issue bonds, debentures, notes, or other securities to provide for the repayment of any moneys so borrowed and such securities may be charged upon and secured by the property, assets, rights, rents and revenues of the Commission present or future therein described and may be payable at such times and in such manner and at such place or places in Canada or elsewhere and may bear such interest as the Commission may deem proper.

Additional  
financing  
powers

(2) Money borrowed from time to time for carrying out the purposes of the Commission may, without restricting the generality of the power, be used to refund or repay any existing indebtedness or to make repayment on account of advances by the Province to the Commission or to pay any indebtedness that has been guaranteed or assumed by the Commission.

Guarantee-  
ing bonds

(3) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for the purposes aforesaid.

Form of  
guaranty

(4) The form of guaranty and the manner of its execution shall be determined by the Lieutenant Governor in Council.

Interpre-  
tation

(5) For the purposes of this section, "railway" means the railway that the Commission or the Nipissing Central Railway Company is authorized to construct or operate and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property, real or personal, and works connected therewith and also any railway bridge, tunnel, or other structure that the Commission or the Nipissing Central Railway Company is authorized to construct. R.S.O. 1950, c. 264, s. 34.



**35.** The Lieutenant Governor in Council may from time to time authorize the Treasurer of Ontario to advance to the Commission out of the Consolidated Revenue Fund, such sums as may be deemed necessary for the construction, maintenance and operation of the railway and for the purchase, maintenance and operation of motor vehicles, trailers, aircraft, lines of buses, coaches, trucks and aircraft and equipment therefor or other works of the Commission, and all moneys so advanced shall be duly accounted for by the Commission. R.S.O. 1950, c. 264, s. 35.

Advances  
out of  
Con-  
solidated  
Revenue  
Fund

**36.** An account to be called the Ontario Northland Transportation Commission Account shall be kept by the Treasury Department of all payments out of the Consolidated Revenue Fund and of moneys received from the Commission in repayment of any indebtedness incurred by the Commission. R.S.O. 1950, c. 264, s. 36.

Special  
account in  
books of  
Treasury

**37.**—(1) The revenues and receipts of the Commission shall be applied to the payment of all costs, liabilities, obligations and expenditures properly incurred or made, and all surpluses shall be paid into the Consolidated Revenue Fund at such times and in such amounts as the Lieutenant Governor in Council may direct.

Application  
of revenue

(2) The Commission may provide a sinking fund for the purpose of the redemption of any securities issued by the Commission.

Sinking  
fund

(3) The amount of surplus to the credit of any sinking fund provided by the Commission shall be invested in securities of the Province of Ontario at such times and in such manner as the Lieutenant Governor in Council may direct. R.S.O. 1950, c. 264, s. 37.

Investment  
of surplus  
moneys

**38.** The Commission shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums of money received and paid, and of the several purposes for which the same were received and paid, which books shall at all times be open to the inspection of any member of the Commission and of the Treasurer of Ontario, and of any person appointed by the Commission or Treasurer for that purpose and of any other person appointed by the Lieutenant Governor, and any member of the Commission, and any of such persons may take copies of or extracts from such books. R.S.O. 1950, c. 264, s. 38.

Accounts to  
be kept by  
Commission

**39.** The Provincial Auditor shall be the auditor of the Commission and he shall audit the books, records and accounts of the Commission and prepare an annual auditor's statement covering the fiscal year last past. R.S.O. 1950, c. 264, s. 39.

Auditor

Fiscal year      **40.** The fiscal periods of the Commission end on the 31st day of December in each year. R.S.O. 1950, c. 264, s. 40.

Annual  
report

**41.**—(1) The Commission shall after the close of each fiscal year of the Commission file with the Provincial Secretary an annual report which shall include the report of its auditor and which shall set forth the operations of the Commission for the fiscal year then last past and such particulars as may appear to the Commission to be of public interest or as may be required by the Lieutenant Governor in Council.

Tabling

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 264, s. 41.

Commission  
and officers  
not to  
contract  
with  
commis-  
sioners

**42.** No member of the Commission nor any officer or employee thereof shall make or enter into any contract with the Commission, or be pecuniarily interested directly or indirectly in any contract or work in regard to which any portion of the money under the control of the Commission is being or is to be expended. R.S.O. 1950, c. 264, s. 42.

Leave of  
Attorney  
General

**43.** No action shall be brought against the Commission or against any member thereof for anything done or omitted in the exercise of his office without the consent of the Attorney General. R.S.O. 1950, c. 264, s. 43.

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## CHAPTER 277

**The Ontario Parks Integration Board Act**

**1.**—(1) The Ontario Parks Integration Board, herein called <sup>Board continued</sup> the Board, is continued as a corporation without share capital. 1956, c. 61, s. 1 (1), *amended*.

(2) The Board shall be composed of the chairman of The <sup>Composition</sup> Niagara Parks Commission, the chairman of The Ontario-St. Lawrence Development Commission or a vice-chairman of that Commission designated by the Commission, the Treasurer of Ontario, the Minister of Lands and Forests, the Minister of Planning and Development and their successors in office from time to time. 1956, c. 61, s. 1 (2); 1959, c. 68, s. 1.

**2.** The Lieutenant Governor in Council may designate one <sup>Chairman</sup> of the members of the Board as chairman and one of the members as vice-chairman. 1956, c. 61, s. 2.

**3.** The members of the Board are not entitled to receive <sup>No re-muneration</sup> any remuneration or other compensation for their services. 1956, c. 61, s. 3.

**4.** Notwithstanding *The Legislative Assembly Act*, any <sup>Member of Assembly</sup> member of the Assembly may act as a member of the Board <sup>R.S.O. 1960, c. 208</sup> without thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly. 1956, c. 61, s. 4.

**5.** A majority of the members of the Board constitutes a <sup>Quorum</sup> quorum. 1956, c. 61, s. 5.

**6.** The Board may pass such by-laws as in its opinion are <sup>By-laws</sup> appropriate for the carrying out of its objects and the trans-action of its affairs. 1956, c. 61, s. 6.

**7.** It is the function of the Board and it has power to <sup>Function</sup> establish integrated policies of management and development of provincial parks, parks under *The Conservation Authorities Act*, parks under *The Parks Assistance Act*, parks under *The* <sup>R.S.O. 1960, co. 62, 285, 262, 279</sup> *Niagara Parks Act* and parks under *The Ontario-St. Lawrence Development Commission Act*. 1960, c. 78, s. 1.



Annual  
report

**8.**—(1) The Board shall make a report annually to the Treasurer of Ontario containing such information as he may require.

Idem

(2) A copy of the report shall be filed with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1956, c. 61, s. 12.

R.S.O. 1960,  
c. 71 not  
applicable

**9.** *The Corporations Act* as amended from time to time does not apply to the Board. 1956, c. 61, s. 13.

## CHAPTER 278

## The Ontario School Trustees' Council Act

## 1. In this Act,

Interpre-  
tation

- (a) "board of trustees" means a board of education, board of high school trustees, board of public school trustees or board of separate school trustees;
- (b) "Council" means the Ontario School Trustees' Council;
- (c) "Department" means the Department of Education;
- (d) "Executive" means the Executive of the Council;
- (e) "member" means an appointed representative from one of the member associations of the Council;
- (f) "member association" means an association that appoints representatives to the Council;
- (g) "Minister" means the Minister of Education. 1953, c. 77, s. 1.

2. The Ontario School Trustees' Council, a corporation established under *The Ontario School Trustees' Council Act*, 1953, is continued. 1953, c. 77, s. 2, amended. Council continued  
1953, c. 77

3.—(1) Except as provided in subsection 7, the Council shall be composed of two representatives appointed to it by each of the following associations, which shall be member associations: Composi-  
tion of  
Council

1. The Associated High School Boards of the Province of Ontario.
2. L'Association des Commissaires des Écoles Bilingues d'Ontario.
3. The Ontario School Trustees' and Ratepayers' Association.
4. Ontario Separate School Trustees' Association.
5. The Public School Trustees' Association of Ontario.
6. Ontario Urban and Rural School Trustees' Association.

7. Northern Ontario Public and Secondary School Trustees' Association. 1953, c. 77, s. 3 (1); 1958, c. 75, s. 1 (1).

Appoint-  
ments

(2) The appointments of representatives shall be made by each member association in each year at the first meeting of each association in that year. 1953, c. 77, s. 3 (2), *amended*.

Term of  
office

(3) The members shall hold office until their successors are appointed. 1953, c. 77, s. 3 (3).

Alternate  
repre-  
sentatives

(4) At its first meeting in each year, each member association may appoint an alternate representative for each representative appointed by it and, when a representative is unable to attend a meeting of the Council, his alternate representative may attend the meeting and has all the powers and duties of the representative thereat.

Idem

(5) No person shall be appointed as an alternate representative unless he is qualified to be a member of the Council and no alternate representative is eligible to be an officer of the Council.

Vacancies

(6) Vacancies arising from death, resignation or otherwise of a representative or alternate representative shall be filled forthwith by the appointing member association, and the person appointed to fill the vacancy shall hold office for the unexpired term of the person whose place has become vacant. 1954, c. 66, s. 1.

Third  
representa-  
tive

(7) When a representative from a member association is vice-chairman, chairman or past-chairman of the Council in any year, such association may appoint a third representative to council for that year and shall designate the two representatives who shall have the right to vote at meetings of the council when the three representatives of the association are present. 1958, c. 75, s. 1 (2).

Objects of  
Council

4. The objects of the Council are,

- (a) to promote and advance the cause of education;
- (b) to provide a medium of communicating to the Department and to The Ontario Teachers' Federation the considered views of the member associations on educational and administrative matters within the jurisdiction of school trustees on all matters of mutual concern to the member associations. 1953, c. 77, s. 4.

Head office

5. The head office of the Council shall be in the City of Toronto. 1953, c. 77, s. 5.



**6.** The officers of the Council shall be a chairman and a <sup>Officers</sup> vice-chairman, who shall be elected annually from among the members, and a secretary and a treasurer or a secretary-treasurer, who shall be appointed annually by the Council. 1953, c. 77, s. 6.

**7.** No person shall be appointed as a member unless he <sup>Qualification</sup> is a member of a board of trustees but the secretary, treasurer or secretary-treasurer need not be a member of the Council or a member of a board of trustees. 1953, c. 77, s. 7.

**8.** There shall be an Executive consisting of the immediate <sup>Executive</sup> past chairman, the chairman, the vice-chairman, and the secretary-treasurer, and such other officers as the Council may from time to time determine. 1953, c. 77, s. 8.

**9.** The Executive is responsible for carrying on the general <sup>Duties of Executive</sup> business of the Council and may, subject to the approval of the Minister,

(a) acquire and hold in the name of the Council such real and personal property as may be necessary for the purposes of the Council and may alienate, mortgage, lease or otherwise dispose of such property as occasion may require;

(b) invest the funds of the Council in any securities in which a trustee is authorized to invest money under *The Trustee Act*;

R.S.O. 1960,  
c. 408

(c) make such grants as it may deem advisable to organizations having the same or like objects as the Council. 1953, c. 77, s. 9.

**10.** Subject to the approval of the Minister, the Council <sup>By-laws and regulations</sup> may from time to time pass such by-laws and make such regulations as may be deemed necessary and requisite for carrying out the objects of the Council. 1953, c. 77, s. 10.

**11.** The Council has the authority to consider and deal <sup>Powers of Council</sup> with all matters of mutual concern to the member associations by and with the unanimous consent of the members. 1953, c. 77, s. 11.

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## CHAPTER 279

### The Ontario-St. Lawrence Development Commission Act

**1. In this Act,**

Interpre-  
tation

- (a) "Commission" means The Ontario-St. Lawrence Development Commission established by this Act;
- (b) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (c) "Parks" means all land in the counties of Glengarry, Stormont, Dundas, Grenville, Frontenac, Lennox and Addington, and Leeds vested in or placed under the control of the Commission, including highways, roads and boulevards and any interest in land. 1955, c. 59, s. 1; 1958, c. 76, s. 1, *amended*.

**2.—(1)** The Ontario-St. Lawrence Development Commission is continued as a corporation without share capital, and shall be composed of not less than three and not more than fifteen members, of whom one shall be chairman and two shall be vice-chairmen. 1955, c. 59, s. 2 (1); 1959, c. 69, s. 1, *amended*.

Commission  
continued

(2) The Lieutenant Governor in Council shall appoint the chairman, the first vice-chairman and the second vice-chairman of the Commission, each of whom shall hold office during good behaviour for a term not exceeding ten years and each of whom shall be paid such salary as may be fixed by the Lieutenant Governor in Council.

Appoint-  
ment of  
chairman  
and vice-  
chairmen

(3) The Lieutenant Governor in Council shall from time to time appoint such other members of the Commission as are deemed advisable who shall hold office for such terms and upon such conditions as the Lieutenant Governor in Council prescribes.

Appoint-  
ment of  
other  
members

(4) On the expiration of his term of office, a member who has been appointed chairman or a vice-chairman may be re-appointed for a further term of office not exceeding ten years.

Re-appoint-  
ment

(5) Vacancies in the membership of the Commission may be filled by the Lieutenant Governor in Council.

Vacancies



**Members of Assembly**  
R.S.O. 1960,  
c. 208      (6) Notwithstanding *The Legislative Assembly Act*, any member of the Assembly may be appointed as a member of the Commission and be entitled to act as such without thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly.

**Quorum**      (7) The powers of the Commission may be exercised by a majority of the members. 1955, c. 59, s. 2 (2-7).

**Executive committee**      **3.—**(1) The Chairman and two vice-chairmen are the chief executive officers of the Commission and constitute an executive committee which is charged with the direction and control of the business of the Commission and it may exercise all of the powers of the Commission in its name, except the making of by-laws, and may, subject to any by-law, delegate such powers as it sees fit to any of the other members of the Commission.

**Absence of chairman**      (2) During the incapacity or absence for any reason of the chairman or during a vacancy in the office of the chairman, the first vice-chairman, or in his incapacity or absence the second vice-chairman, may exercise and perform all the powers and functions of the chairman.

**Quorum**      (3) The powers of the executive committee may be exercised by a majority of them. 1955, c. 59, s. 3.

**Staff**      **4.—**(1) The Lieutenant Governor in Council may appoint such officers, clerks or other employees as may be necessary for the purposes of the Commission and shall fix their salaries, wages or other remuneration.

**Idem**  
R.S.O. 1960,  
c. 331      (2) All such officers, clerks or other employees so appointed are subject to *The Public Service Act* and are civil servants within the meaning of that Act. 1955, c. 59, s. 4.

**Expenses**      **5.** All expenditures, costs, charges and expenses incurred and payable in respect of the carrying out of this Act, including the salaries and expenses of the members of the Commission and of the officers, clerks and other employees thereof and including all capital expenditures authorized by the Lieutenant Governor in Council, shall be paid out of such moneys as are appropriated therefor by the Legislature. 1955, c. 59, s. 5.

**General powers and duties**      **6.—**(1) It is the duty of the Commission to develop, control, manage, operate and maintain the Parks and for the purposes of carrying out such duty the Commission has power,

(a) to make such by-laws, rules and orders as may be deemed expedient for the constitution of the Com-

mission and the administration and management of its affairs and the conduct of its business;

- (b) to acquire, construct, operate, maintain and generally manage and provide recreational facilities, restaurants, refreshment booths, stands for the sale of souvenirs and other wares, shops, sanitary and toilet facilities, buses and other vehicles for use in connection with the Parks, boats and boat lines, camp sites and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of the Parks;
- (c) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;
- (d) to operate and maintain a school for the training of apprentice gardeners;
- (e) to receive and take from any person by grant, gift, devise, bequest or otherwise any property real or personal or any interest therein.

(2) It is the duty of the Commission to investigate and inquire into any matter or subject affecting or incidental to the welfare of the municipalities in the counties of Glengarry, Stormont, Dundas, Grenville, Frontenac, Lennox and Addington, and Leeds, or any of them, or the inhabitants thereof as may be referred to the Commission by a member of the Executive Council or any such municipality or inhabitant, and the Commission may report thereon to such member, municipality or inhabitant or any of them. 1955, c. 59, s. 6, *amended*.

General power to investigate matters upon request of Minister, municipality or inhabitant

7. With the approval of the Lieutenant Governor in Council, the Commission has power,

Qualified powers

- (a) to acquire by purchase, lease or otherwise and with or without the consent of the owner enter upon, take and expropriate and sell or otherwise dispose of any land or any interest in land;
- (b) to construct or acquire by purchase, lease or otherwise and operate and maintain bridges over the St. Lawrence River. 1955, c. 59, s. 7.

8.—(1) The Commission in the exercise of its powers to take land compulsorily has all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words "the Minister", "the Department" or "the Crown"

Expropriation R.S.O. 1960 c. 338

appear in such Act they, where the context permits, mean the Commission, and the taking of such land by the Commission shall be deemed to be for the public purposes of Ontario.

**Procedure**        (2) The Commission shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works enters upon, takes or uses land or property for the public purposes of Ontario and all the provisions of that Act apply *mutatis mutandis*.

**Vesting of land**        (3) Upon the deposit in the proper registry or land titles office of a plan and description of the land required by the Commission, signed by the chairman of the Commission and by an Ontario land surveyor, the land so described thereupon vests in the Commission. 1955, c. 59, s. 8.

**Highways**        **9.**—(1) Notwithstanding any general or special Act, the Lieutenant Governor in Council may vest any highway in any municipality in the Commission and thereafter the Commission has exclusive jurisdiction over it.

**Idem**        (2) The Commission and any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, re-constructing, maintaining or repairing of any highway, including, subject to subsection 3, the cost or the apportionment of the cost of the same and the payment thereof.

**Compensation**        (3) Every agreement entered into under subsection 2 shall provide that the cost of any lands acquired pursuant thereto and all compensation payable in respect of such acquisition or for injurious affection to lands by reason of any work undertaken under any such agreement shall be borne and paid solely by the municipality entering into the agreement. 1955, c. 59, s. 9.

**Controlled-access highways**        **10.**—(1) The Lieutenant Governor in Council may designate any portion of any of the highways, roads, boulevards or parkways of the Commission as a controlled-access highway.

**Idem**        (2) The Lieutenant Governor in Council may, in respect of any portion of any such highway, road, boulevard or parkway so designated, make any regulation that he may make in respect of controlled-access highways under *The Highway Improvement Act*. 1955, c. 59, s. 10.

R.S.O. 1960,  
c. 171

**Local improvement works**        **11.**—(1) The Commission may enter into agreement with any municipality within which any lands of the Commission are situate or that adjoins or is within three miles of the lands



of the Commission as to any work of any of the characters or descriptions mentioned in *The Local Improvement Act*, and the Commission may agree to contribute any sum towards the cost of any work undertaken, either in cash or by annual or other instalments or otherwise, but the Commission is not liable in any way for assessment under *The Local Improvement Act* for the cost of any such work, whether the lands abut directly on the work or otherwise. R.S.O. 1960,  
c. 223

(2) It is not necessary to submit any agreement entered into under this section for the assent of the electors of the municipality, nor is it necessary to receive the assent of the electors of the municipality for the issue of debentures to defray the cost of the work undertaken under any such agreement. 1955, c. 59, s. 11.

**12.** All lands of the Commission wherever situate are exempt from assessment or taxation by any municipality. Lands  
exempt from  
taxation 1955, c. 59, s. 12.

**13.** The Commission shall cause books to be kept and true and regular accounts to be entered therein of all moneys received and paid and of the several purposes for which the same were received and paid, and such books shall be open to the inspection of any member of the Commission, the Treasurer of Ontario or any person appointed by the Commission or Treasurer for that purpose, and any such person may make copies of or take extracts from the books. 1955, c. 59, s. 13. Books of  
account

**14.** Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by *The Public Officers Act*. 1955, c. 59, s. 14. Security  
by officers  
  
R.S.O. 1960,  
c. 326

**15.** The books and records of the Commission shall be examined annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates. 1955, c. 59, s. 15. Audit

**16.—(1)** The Commission shall make a report annually to the Minister containing such information as the Minister may require. Annual  
report

(2) A copy of the report shall be filed with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1955, c. 59, s. 16. Idem

**Regulations**    **17.**—(1) The Commission, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) regulating and governing the use by the public of the Parks and the works, vehicles, boats, services and things under the jurisdiction of the Commission;
- (b) providing for the protection and preservation from damage of the property of the Commission;
- (c) prescribing tolls for the occupation and use of Park lands and works, vehicles, boats, recreational facilities and services under the jurisdiction of the Commission, for opening and closing graves or any class thereof in any cemetery in the Parks, and for entrance to places of historical and scenic interest or any other occupation or uses of a similar nature;
- (d) prescribing permits designating privileges in connection with the use of the Parks or any part thereof and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic in the Parks or any part thereof and prohibiting the use of any class or classes of vehicles in the Parks or any part thereof;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks or within one-quarter mile of any part thereof;
- (g) licensing, regulating and governing taxi-cabs and other vehicles for hire and the owners and drivers thereof, and prescribing fees for such licences;
- (h) licensing, regulating and governing guides and prescribing fees for such licences;
- (i) prescribing terms and conditions under which horses, dogs and other animals may be allowed in the Parks or any part thereof;
- (j) for imposing fines not exceeding \$100 for any breach of any regulation;
- (k) for such purposes and objects as are deemed necessary for the carrying out of this Act.

**Offence**

(2) An offence against a regulation made under this Act R.S.O. 1960, is punishable under *The Summary Convictions Act* and the fine for any such offence is payable to the Treasurer of Ontario. 1955, c. 59, s. 17.

**18.** Nothing in this Act authorizes the interference with any right to inter the body of any deceased person in any burying ground vested in the Commission and nothing in this Act confers the right to remove any body there interred. 1955, c. 59, s. 18. Rights of  
interment  
not affected

**19.** *The Corporations Act* does not apply to the Commission. 1955, c. 59, s. 19. R.S.O. 1960,  
c. 71  
not appli-  
cable

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## CHAPTER 280

**The Ontario Telephone Development Corporation Act****1. In this Act,**Interpre-  
tation

- (a) "Authority" means the Ontario Telephone Authority;
- (b) "Board" means the Ontario Municipal Board;
- (c) "Corporation" means The Ontario Telephone Development Corporation. 1955, c. 60, s. 1.

**2.—**(1) The Ontario Telephone Development Corporation <sup>Corporation continued</sup> is continued as a corporation without share capital having as its object the improvement of telephone systems in Ontario. 1955, c. 60, s. 2 (1), *amended*.

(2) The Corporation shall be composed of not less than <sup>Membership</sup> three and not more than five members, as the Lieutenant Governor in Council may from time to time determine, who shall hold office as members during the pleasure of the Lieutenant Governor in Council and who shall be such officers in the public service of Ontario or such members of the Authority as the Lieutenant Governor in Council may from time to time appoint.

(3) The members for the time being of the Corporation <sup>Board of directors</sup> form and are its board of directors and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board of directors.

(4) Subject to the regulations, the affairs of the Corpora- <sup>Management</sup> tion are under the management and control of the board of directors and in the absence of the chairman, or if at any time that office is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman.

(5) The Corporation may pay to its directors such re- <sup>Remunera-  
tion of  
directors</sup> munerations and expense allowances as are from time to time fixed by the Lieutenant Governor in Council.

(6) The head office of the Corporation shall be at the City <sup>Head office</sup> of Toronto in the County of York. 1955, c. 60, s. 2 (2-6).

Not to be  
carried on  
for gain

**3.** The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promoting its objects. 1955, c. 60, s. 3.

Powers

**4.—(1)** To carry out its objects, the Corporation has power, subject to the regulations, if any,

- (a) to acquire by purchase, lease or otherwise, existing telephone systems or parts thereof;
- (b) to construct, operate and maintain new telephone systems and telephone systems acquired by it, and extensions of its telephone systems;
- (c) to sell its telephone systems or any part or parts thereof;
- (d) to purchase and sell shares of companies operating telephone systems or incorporated for the purpose of operating telephone systems.

Expropria-  
tion of  
telephone  
systems

(2) Where the Corporation proposes to expropriate a telephone system or any part thereof, it may offer to purchase the system or part at a fixed price and if the owner does not accept the price so offered, within one month from the date of the offer, the Corporation may, with the consent of the Authority, pass a by-law for expropriating the system or the part thereof.

Vesting and  
possession

(3) Upon the day fixed therefor in the by-law, which shall be not less than one month after the by-law is passed, the telephone system or the part thereof that the Corporation offered to purchase vests in the Corporation and the Corporation may take possession of the system or part, and shall make due compensation to the owner therefor.

Compensa-  
tion

(4) The amount of the compensation, if not mutually agreed upon, shall be determined by the Board.

Where land  
included

(5) Where the property of the system or part to be expropriated includes land, the by-law shall contain a description of the land, and, if it includes an easement or other right in the nature of an easement, the by-law shall contain a statement of the nature and extent of the easement to be expropriated, and the by-law shall be registered in the proper registry or land titles office.

Damage  
resulting  
from  
severance

(6) In fixing the price to be offered or the compensation to be made where part only of a system is proposed to be purchased or is expropriated, there shall be included in the price or compensation, as the case may be, a sum sufficient to compensate the owner of the system for any damage directly resulting from the severance. 1955, c. 60, s. 4.



## 5.—(1) Where,

Payments re  
debentures

- (a) the Corporation acquires, by purchase or expropriation, a municipal telephone system that is subject to sections 27 to 86 of *The Telephone Act*; and

R.S.O. 1960,  
c. 394

- (b) debentures of the municipality issued in respect of the system are then outstanding and unpaid,

the Corporation and the municipality may agree, or the Board in determining the compensation may order the Corporation to pay to the municipality before the due date all amounts of principal and interest becoming due upon such outstanding debentures, or upon such of them as the agreement or order provides.

(2) Where the municipal telephone system purchased or expropriated by the Corporation is subject to sections 35 to 86 of *The Telephone Act* and an agreement or order is made under subsection 1, any debentures theretofore issued in respect of the system and outstanding and unpaid cease to be a charge upon the lands of the respective subscribers or any of them.

Subscribers'  
lands  
released  
from debt

(3) Where an agreement or order is made under subsection 1 in respect of any debentures outstanding and unpaid, the municipality shall raise in each year during the currency of all outstanding debentures issued in respect of the system, by a special rate on all the rateable property in the municipality, the sums of principal and interest payable in respect of the debentures in such year to the extent that such sums are not provided out of the proceeds of the sale and the moneys payable by the Corporation under the agreement or order.

Special  
rates

6.—(1) The Corporation, in addition to its powers under subsection 2 of section 4, has power,

Acquisition  
of land

- (a) to acquire by purchase, lease or otherwise;
- (b) without the consent of the owner, to enter upon, take and expropriate; and
- (c) to sell or otherwise dispose of,

any land or any interest in land.

(2) The Corporation in the exercise of its powers to take land compulsorily has all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act they, where the context permits, mean the Corporation, and the taking of such land by the Corporation shall be deemed to be for the public purposes of Ontario.

Expropria-  
tion  
R.S.O. 1960,  
c. 338

## Procedure

(3) The Corporation shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works enters upon, takes or uses land or property for the public purposes of Ontario and all the provisions of that Act apply *mutatis mutandis*.

## Mode of perfecting title

(4) Upon the deposit in the proper registry or land titles office of a plan and description of the land required by the Corporation, signed by the chairman of the board of directors of the Corporation and by an Ontario land surveyor, the land so described thereupon vests in the Corporation. 1955, c. 60, s. 6.

## Borrowing powers:

7.—(1) To carry out its object, the Corporation has power, with the approval of the Lieutenant Governor in Council and subject to the regulations, to raise from time to time, by way of loan, such sums of money as it deems expedient, and such loans may be made in any or all of the following ways or partly in one and partly in another or others:

## debentures

(a) by the issue and sale of debentures of the Corporation issued in such form and denominations and at such rate of interest and with the principal and interest thereof payable at such periods, times and places as the Lieutenant Governor in Council deems expedient and as the regulations may provide;

## bills and notes

(b) by the issue and sale of treasury bills or notes of the Corporation issued in such form and denominations and at such rate of interest and with the principal and interest thereof payable at such periods, times and places as the Lieutenant Governor in Council deems expedient and as the regulations may provide; and

## temporary loans

(c) by temporary loans as the Lieutenant Governor in Council deems expedient and as the regulations may provide.

## Refunding of loans, etc.

(2) The Corporation has power, with the approval of the Lieutenant Governor in Council and subject to the regulations, to raise from time to time, by way of loan and by any of the ways set forth in subsection 1, any sum or sums of money for any one or more of the following purposes:

(a) payment, retirement, refunding or renewal of the whole or any part of any debentures, bills or notes issued by the Corporation under clause *a* or *b* of subsection 1; and

(b) payment, retirement, refunding or renewal of the whole or any part of any temporary loan made by the Corporation under clause *c* of subsection 1.

(3) Debentures issued by the Corporation may be expressed to be redeemable, at the option of the Corporation, on any date prior to maturity according to the mode, terms, periods, times and places of redemption approved by the Lieutenant Governor in Council and as the regulations may provide. Debentures may be redeemable before maturity

(4) Every debenture, bill or note issued by the Corporation shall contain a statement in the body thereof that it is issued under the authority of this Act and no debenture, bill or note purporting to be issued by the Corporation is valid unless such statement is so contained. Debentures to state source of authorization

(5) Every advertisement for the sale by the Corporation of any of its debentures, bills or notes shall contain a statement that the issue and sale of the debentures, bills or notes are made under the authority of this Act. Advertisements of sale to state source of authorization

(6) Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board requires. 1955, c. 60, s. 7. Lost debentures

8.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures, bills or notes issued by, or of any temporary loan made to the Corporation under the authority of this Act. Guarantee of payment by Province

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. Form of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province and is not open to question upon any ground whatsoever. Validity of guaranty

(4) Any debenture, bill or note issued by, or temporary loan made to the Corporation, payment whereof is guaranteed by the Province under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. 1955, c. 60, s. 8. Guaranteed debentures, etc.

9. Notwithstanding anything in any other Act, debentures issued by the Corporation are at all times a lawful investment for municipal, school and trust funds. 1955, c. 60, s. 9. Trustees, etc., investments in debentures

10. The books and records of the Corporation shall be audited annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates. 1955, c. 60, s. 10. Audit



## Report

**11.**—(1) The Corporation shall make a report annually to the member of the Executive Council to whom the administration of this Act is assigned and to the Authority, and such report shall contain a financial statement certified by the auditor and such other matters relating to the work of the Corporation as may appear to be of public interest.

## Idem

(2) A copy of the report shall be filed with the Provincial Secretary, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1955, c. 60, s. 11.

## Regulations

**12.** The Lieutenant Governor in Council may make regulations governing,

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the issue and sale of debentures, bills or notes and the making of temporary loans by the Corporation;
- (c) the payment, retirement, refunding or renewal of debentures, bills or notes issued and loans made by the Corporation;
- (d) the redemption before maturity of any debentures issued by the Corporation;
- (e) the registration of debentures issued by the Corporation and the keeping of debenture registers in connection therewith;
- (f) the guarantee of payment by the Province of any debentures, bills or notes issued and loans made by the Corporation, and the form and manner of execution of any guaranty of payment;
- (g) the acquisition of existing telephone systems by the Corporation;
- (h) the construction, operation and maintenance of telephone systems, and extensions thereof, by the Corporation;
- (i) the sale of its telephone systems, or any part or parts thereof, by the Corporation;
- (j) the purchase and sale by the Corporation of shares of companies operating telephone systems or incorporated for the purpose of operating telephone systems;

- (k) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1955, c. 60, s. 12.

**13.**—(1) Except where inconsistent with this Act, *The Application of R.S.O. 1960, c. 394* *Telephone Act* applies to the Corporation and its undertaking.

(2) *The Corporations Act* does not apply to the Corporation. R.S.O. 1960, c. 71 not applicable  
1955, c. 60, s. 13.

**14.** This Act shall be administered by the member of Administration of the Executive Council to whom it is assigned by the Lieutenant Governor in Council. 1955, c. 60, s. 14.

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## CHAPTER 281

## The Ontario Water Resources Commission Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "borrowings of the Commission" includes all loans raised by the Commission by the issue of debentures or otherwise and all advances from the Province to the Commission;
- (c) "Commission" means the Ontario Water Resources Commission;
- (d) "Commission Debt Retirement Account" means the Ontario Water Resources Commission Debt Retirement Account;
- (e) "Commission Reserve Account" means the Ontario Water Resources Commission Reserve Account;
- (f) "construction" includes reconstruction, improvement, extension, alteration, replacement and repairs, and "construct" has a corresponding meaning;
- (g) "cost" in relation to a project means the cost thereof as determined by the Commission and includes interest during construction and such engineering fees and other charges and expenses in connection with construction as the Commission may determine, and such proportion of discounts, commissions and other charges and expenses in respect of the issue of debentures by the Commission as the Commission in its discretion may allocate to the project;
- (h) "date of completion" of a project means the date that is certified by the Commission as being the date on which the project is completed to the extent necessary to enable the Commission to supply water or to receive, treat and dispose of sewage, as the case may be;
- (i) "debentures" includes bonds, notes and other securities;
- (j) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;

R.S.O. 1960,  
c. 98

- (k) "Minister" means the member of the Executive Council designated by the Lieutenant-Governor in Council to administer this Act;
- (l) "municipality" has the same meaning as in *The Department of Municipal Affairs Act*;
- (m) "owner" means a municipality or person having authority to construct, maintain, operate, repair, improve or extend water works or sewage works;
- (n) "project" means water works or sewage works provided for in an agreement under section 39;
- (o) "Province" means the Province of Ontario;
- (p) "sewage" includes drainage, storm water, commercial wastes and industrial wastes;
- (q) "sewage works" means any public works for the collection, transmission, treatment and disposal of sewage, or any part of any such works;
- (r) "water works" means any public works for the collection, production, treatment, storage, supply and distribution of water or any part of any such works. 1957, c. 88, s. 1.

#### ADMINISTRATION

Responsible  
Minister

**2.** The Lieutenant Governor in Council may from time to time designate a member of the Executive Council to administer this Act. 1957, c. 88, s. 2.

#### THE COMMISSION

Commission  
continued

1956, c. 62

**3.—(1)** The Ontario Water Resources Commission constituted a corporation without share capital on behalf of Her Majesty in right of Ontario by *The Ontario Water Resources Commission Act, 1956* is continued and shall be composed of not fewer than three and not more than seven persons as the Lieutenant Governor in Council from time to time determines. 1957, c. 88, s. 3 (1); 1959, c. 70, s. 1.

Appointment

**(2)** The members of the Commission shall be appointed by the Lieutenant Governor in Council and one of them shall be designated as chairman and one of them may be designated as vice-chairman.

Acting  
chairman

**(3)** In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such member of the Commission as the Commission designates for such purpose shall act as and have all the powers of the chairman.

(4) Each member of the Commission shall hold office <sup>Vacancies</sup> during pleasure and the Lieutenant Governor in Council upon the death, resignation or removal from office of any member of the Commission may appoint some other person in his place. 1957, c. 88, s. 3 (2-4).

4. A copy of any by-law, resolution or minute certified by <sup>Evidence</sup> the secretary or assistant secretary under the seal of the Commission to be a true copy shall be received as *prima facie* evidence in any court without further proof. 1957, c. 88, s. 4.

5. All expenditures of the Commission, except such part <sup>Expenditures</sup> thereof as is payable to the Commission by the municipalities or persons having project agreements with the Commission either under this Act or under such agreements, shall be paid out of its revenues or the moneys appropriated therefor by the Legislature. 1957, c. 88, s. 5; 1958, c. 77, s. 1.

6. The books and records of the Commission shall be <sup>Audit</sup> examined annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates. 1957, c. 88, s. 6.

7.—(1) The Commission shall make a report annually to the Minister containing such information as the Minister <sup>Annual report</sup> may require.

(2) A copy of the report shall be filed with the Provincial <sup>Idem</sup> Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1957, c. 88, s. 7.

8. A majority of the members of the Commission con- <sup>Quorum</sup> stitutes a quorum. 1957, c. 88, s. 8.

9. The chairman, vice-chairman and other member or mem- <sup>Remunera- tion</sup> bers, as the case may be, of the Commission shall receive such remuneration for their services as the Lieutenant Governor in Council determines. 1957, c. 88, s. 9.

10.—(1) The Commission may, subject to the approval of <sup>Officers and employees</sup> the Lieutenant Governor in Council, establish job classifications, personnel qualifications and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications, qualifications and salary ranges so approved.



Employees' superannuation benefits  
R.S.O. 1960, c. 332

(2) *The Public Service Superannuation Act* applies to the permanent staff of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act. 1957, c. 88, s. 10, *part, amended*.

Security by officers  
R.S.O. 1960, c. 326

**11.** Every member and employee who is entrusted by the Commission with the custody or control of money or securities shall give security in the manner and form provided by *The Public Officers Act*. 1957, c. 88, s. 11.

Fiscal year

**12.** The fiscal year of the Commission begins on the 1st day of January and ends on the 31st day of December of the same year. 1957, c. 88, s. 12.

Execution of powers

**13.** The powers of the Commission shall be exercised by by-law or resolution. 1957, c. 88, s. 13; 1958, c. 77, s. 2.

By-laws

**14.** The Commission may pass by-laws governing its proceedings, the calling of meetings of the Commission, specifying the powers and duties of employees of the Commission and generally dealing with all matters within its objects. 1957, c. 88, s. 14.

R.S.O. 1960, c. 71 not applicable

**15.** *The Corporations Act* does not apply to the Commission. 1957, c. 88, s. 15.

Function

**16.**—(1) Notwithstanding any other Act, it is the function of the Commission and it has power,

- (a) to control and regulate the collection, production, treatment, storage, transmission, distribution and use of water for public purposes and to make orders with respect thereto;
- (b) to construct, acquire, provide, operate and maintain water works and to develop and make available supplies of water to municipalities and persons;
- (c) to construct, acquire, provide, operate and maintain sewage works and to receive, treat and dispose of sewage delivered by municipalities and persons;
- (d) to make agreements with any one or more municipalities or persons with respect to a supply of water or the reception, treatment and disposal of sewage;
- (e) to conduct research programmes and to prepare statistics for its purposes; and
- (f) to perform such functions or discharge such duties as may be assigned to it from time to time by the Lieutenant Governor in Council. 1957, c. 88, s. 16.

(2) Every person who contravenes any order made under clause *a* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for every day or part thereof during which such contravention continues. 1958, c. 77, s. 3.

**17.** The Commission may for its purposes exercise any or all of the powers that are conferred by any general Act upon a municipality respecting the establishment, construction, maintenance of operation of water works or sewage works. 1957, c. 88, s. 17.

**18.—**(1) The Commission and its employees and agents may at any time for its purposes, without consent and without compensation, enter into the lands or buildings of the Province or of any municipality or of any person, or into any highway or road under the jurisdiction and control of any public authority, and may make such surveys, examinations, investigations inspections or other arrangements as it deems necessary.

(2) The Commission and its employees and agents may for its purposes, without consent and without compensation, lay such pipes and appurtenances thereto as it deems necessary in, upon, through, over and under any highway or road under the jurisdiction and control of any public authority.

(3) Lands, buildings, highways or roads disturbed by the exercise of any of the powers mentioned in subsection 1 or 2 shall be restored to their original condition without unnecessary delay. 1957, c. 88, s. 18.

**19.—**(1) The Commission may for its purposes acquire by purchase, lease or otherwise or, without the consent of the owner, enter upon, take possession of, expropriate and use land and may use the waters of any lake, river, pond, spring or stream as may be deemed necessary for its purposes, and, upon such terms as it deems proper, may sell, lease or dispose of any land that in its opinion is not necessary for its purposes.

(2) The Commission in the exercise of its powers to take such land compulsorily has all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act they, where the context permits, mean the Commission, and the taking of such land by the Commission shall be deemed to be for the public purposes of Ontario.

(3) The Commission shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works

enters upon, takes or uses land for the public purposes of Ontario and all the provisions of that Act apply *mutatis mutandis*.

Vesting  
of land

(4) Upon the deposit in the proper registry or land titles office of a plan and description of the land required by the Commission, signed by the chairman of the Commission or by such other member of the Commission as may be authorized by by-law of the Commission and by an Ontario land surveyor, the land so described thereupon vests in the Commission. 1957, c. 88, s. 19.

Interpre-  
tation  
R.S.O. 1960,  
o. 338

(5) For the purpose of this section, "owner" has the same meaning as in *The Public Works Act*. 1958, c. 77, s. 4.

Deposit and  
investment  
of moneys

**20.** Without limiting sections 43, 44 and 45, the Commission shall deposit any moneys in its hands in accounts in one or more chartered banks of Canada or with the Treasurer of Ontario and may in its discretion invest any such moneys in bonds, debentures or other securities of or guaranteed by Canada or any province of Canada or the United Kingdom or in securities of the United States of America. 1957, c. 88, s. 20.

Temporary  
loans

**21.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may from time to time for any of the purposes of the Commission borrow by way of temporary loan from any chartered bank or from any person such sums as the Commission may deem requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

Execution  
of instru-  
ments

(2) Any cheques, promissory notes or other instruments that may be necessary or desirable for the purpose of subsection 1 may be executed in such manner as the Commission may determine.

Provincial  
guarantee

(3) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of the Province to guarantee repayment of any such temporary loans. 1957, c. 88, s. 21.

Issue of  
debentures

**22.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may by by-law authorize the borrowing from time to time by the issue and sale of debentures of the Commission of such sums of money as the Commission may deem requisite for any of its purposes.

Purposes,  
what to  
include

(2) The purposes of the Commission shall, without limiting the generality thereof, include,



- (a) the acquisition, construction, operation and maintenance of projects and any renewals, betterments, enlargements, replacements and extensions thereof or additions thereto, providing in whole or in part for its expenditures made or to be made in connection therewith, including interest, engineering fees and other charges and expenses in connection with the construction of any project, or reimbursing it for any such expenditures heretofore or hereafter made, and repaying in whole or in part any of its temporary borrowings for any such purposes;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any loan raised or debentures issued by the Commission;
- (c) the repayment from time to time of the whole or any part of any advances made by the Province to the Commission or of any debentures of the Commission issued and delivered to the Treasurer of Ontario in respect of such advances; and
- (d) the payment of the whole or any part of any other obligation, liability or indebtedness of the Commission.

(3) The debentures of the Commission may bear interest at such rate or rates and may be payable as to principal and interest in such currency or currencies and at such place or places in Canada or elsewhere and at such time or times and in such manner as the Commission may determine, and any such securities may be made redeemable in advance of their regular maturity date at such time or times, at such price or prices and on such terms and conditions as may be provided in the by-law of the Commission authorizing the issue thereof.

Features of  
debentures

(4) Subject to the approval of the Lieutenant Governor in Council, the Commission may sell or otherwise dispose of any such debentures either at the par value or at less or more than the par value and upon such terms and conditions as the Commission may determine and the Commission may charge, pledge, hypothecate or otherwise deal with any such debentures as collateral security.

Sale of  
debentures

(5) A recital or declaration in any by-law of the Commission authorizing the issue and sale of debentures of the Commission to the effect that it is necessary to issue and sell debentures for the purposes of the Commission in the amount so authorized is conclusive evidence of the fact.

Evidence  
as to  
necessity  
of issue

(6) The debentures of the Commission and the interest coupons, if any, attached thereto shall be in such form or forms and shall be executed in such manner as the Commission may determine.

Form of  
debentures

Reproduction of seal and signatures

(7) The Commission may provide that the seal of the Commission may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture to which it is to be affixed and that any signature upon any debenture and upon the coupons, if any, attached thereto may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Idem

(8) The seal of the Commission when so mechanically reproduced has the same force and effect as if manually affixed and such mechanically reproduced signatures are for all purposes valid and binding upon the Commission notwithstanding that any person whose signature is so reproduced has ceased to hold office before the date of the debentures or before the issue thereof. 1957, c. 88, s. 22.

Debentures deemed trust securities

**23.** The debentures of the Commission are hereby declared to be securities in which trust funds may lawfully be invested in Ontario. 1957, c. 88, s. 23.

Provincial guarantee of debentures

**24.—**(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of the Province to guarantee the payment of the principal of and interest on any debentures issued by the Commission, and the form and manner of execution of any such guarantee or guarantees shall be such as the Lieutenant Governor in Council may approve.

Idem

(2) The Province is liable for the payment of the principal of and interest on the debentures guaranteed according to the tenor thereof, and the Lieutenant Governor in Council is authorized to make arrangements for supplying the money necessary to fulfil the requirements of the guarantee or guarantees and to advance the amount necessary for that purpose out of the Consolidated Revenue Fund. 1957, c. 88, s. 24.

Purchase of debentures by Province

**25.—**(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

(a) to purchase any debentures of the Commission; and

(b) to make advances to the Commission in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may deem expedient.

Idem

(2) The moneys required for the purposes of this section shall be paid out of the Consolidated Revenue Fund. 1957, c. 88, s. 25.

WATER

**26.**—(1) The Commission has the supervision of all surface waters and ground waters in Ontario used as a source of water supply. 1957, c. 88, s. 26 (1); 1958, c. 77, s. 5 (1). Commission to have supervision of waters

(2) The Commission may examine any surface waters or ground waters in Ontario from time to time to determine what, if any, pollution exists and the causes thereof. 1958, c. 77, s. 5 (2). Examination for pollution

(3) The Commission may inquire into and hear and determine any complaint made by or on behalf of any person entitled to the use of water that any material of any kind, that may pollute the water and so impair its quality or render it unfit for its normal use, has been placed in or near or discharged into or near the water. Inquiry by Commission on complaint of pollution of waters

(4) The Commission may make a report upon such complaint and as to what measures, if any, are required to remedy the matter complained of. Report by Commission

(5) The Commission or any person interested may apply to a judge of the Supreme Court by way of originating notice, according to the practice of the court, for an order for the removal or abatement of the injury in the terms of the report and the judge may make such order upon the report of the Commission or upon such further evidence as he deems proper and on such terms and conditions as he deems proper. 1957, c. 88, s. 26 (2-4). Application to court on report of Commission

**27.**—(1) Every municipality or person that discharges or deposits any material of any kind into or in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse or on any shore or bank thereof or into or in any place that may impair the quality of the water of such well, lake, river, pond, spring, stream, reservoir or other water or watercourse is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both. 1957, c. 88, s. 27 (1); 1958, c. 77, s. 6. Discharge of polluting material prohibited

(2) The discharge into any lake, river, stream or other water or watercourse of sewage from sewage works that have been constructed and are operated in accordance with the approval of the Department of Health or the Commission or in conformity with any order of the Board is not a contravention of subsection 1. 1957, c. 88, s. 27 (2). Where subs. 1 does not apply

**28.**—(1) The Commission may define and prescribe an area surrounding any source of public water supply wherein no material of any kind that may impair the quality of the Defined area, notice



water may be placed, deposited, discharged or allowed to remain, and thereupon the owner of such public water supply shall give such notice of the area so defined and prescribed by publication, posting or otherwise as the Commission deems necessary for the protection of such source of public water supply.

Offence

(2) Every person who, within any area surrounding a source of public water supply after the same has been defined and prescribed by the Commission, places, deposits, discharges or allows to remain any material mentioned in subsection 1, or who swims or bathes within such defined area, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both. 1957, c. 88, s. 28.

#### WATER WELL DRILLERS

Licences

**29.**—(1) No person shall carry on the business of boring or drilling wells for water unless he is the holder of a licence therefor from the Commission. 1957, c. 88, s. 29 (1).

Issue and  
renewal of  
licences

(2) Upon application therefor in the prescribed form and upon payment of the prescribed fee, the Commission may issue or renew, as the case may be, a licence to any person to carry on the business of boring or drilling wells for water. 1957, c. 88, s. 29 (3); 1958, c. 77, s. 7 (2).

Expiry

(3) Every such licence and renewal thereof expires on the 31st day of December following the date of issue or renewal.

Suspension  
and can-  
cellation

(4) The Commission may suspend or cancel a licence at any time. 1957, c. 88, s. 29 (4, 5).

Returns

(5) Every licensee shall, within one month after the completion of the boring or drilling of a well for water, make a return to the Commission in the prescribed form. 1957, c. 88, s. 29 (7); 1958, c. 77, s. 7 (4).

Offence

(6) Every person who contravenes a provision of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. 1957, c. 88, s. 29 (8).

#### WATER WORKS

Plans for  
water works  
to be sub-  
mitted to  
Commission

**30.**—(1) When any municipality or any person contemplates the establishment of any water works, or the extension of or any change in any existing water works, the plans, specifications and an engineer's report of the water supply and the works to be undertaken, together with such other information as the Commission may require, shall be submitted

to the Commission, and no such works shall be undertaken or proceeded with and no by-law for raising money to finance such works shall be passed until the source of water supply and the proposed works have been approved by the Commission. 1957, c. 88, s. 30 (1).

(2) Where any person undertakes or proceeds with the establishment of any water works, or the extension of or change in any existing water works, without having first obtained the approval of the Commission, the Commission may order the person to afford at his own expense such facilities as the Commission may deem necessary for the investigation of the works and the source of water supply and may direct such changes to be made in the source of water supply and in the works as the Commission may deem necessary, and any changes directed by the Commission to be made in the works shall be carried out by the person at his own expense. 1958, c. 77, s. 8 (1).

Powers of Commission where water works undertaken without approval

(3) Where in the opinion of the Commission it is in the public interest to do so, the Commission may refuse to grant its approval or grant its approval on such terms and conditions as it deems necessary. 1958, c. 77, s. 8 (2).

Commission may refuse or qualify approval

(4) The owner of water works shall whenever required by the Commission make returns to the Commission of such matters as may be required by the Commission, and any such owner who, for the space of thirty days after being so required, fails or neglects to make the returns required is guilty of an offence and on summary conviction is liable to a fine of not more than \$100.

Returns from water works

(5) Water works shall at all times be maintained, kept in repair and operated in such manner and with such facilities as may be directed from time to time by the Commission. 1957, c. 88, s. 30 (3, 4).

Water works to be kept in repair

#### SEWAGE WORKS

**31.—**(1) When any municipality or any person contemplates the establishment of any sewage works, or the extension of or any change in any existing sewage works, the plans, specifications and an engineer's report of the works to be undertaken, and the location of the discharge of effluent, together with such information as the Commission may require, shall be submitted to the Commission, and no such works shall be undertaken or proceeded with and no by-law for raising money to finance such works shall be passed until the proposed works have been approved by the Commission. 1957, c. 88, s. 31 (1); 1958, c. 77, s. 9 (1).

Plans for sewage works to be submitted to Commission

Powers of  
Commission  
where sew-  
age works  
undertaken  
without  
approval

(2) Where any person undertakes or proceeds with the establishment of any sewage works, or the extension of or any change in any existing sewage works, without having first obtained the approval of the Commission, the Commission may order the person to afford at his own expense such facilities as the Commission may deem necessary for the investigation of the works and the location of the discharge of effluent and may direct such changes to be made in the location of the discharge of effluent and in the works as the Commission may deem necessary, and any changes directed by the Commission to be made in the works shall be carried out by the person at his own expense. 1958, c. 77, s. 9 (2).

Commission  
may refuse  
or qualify  
approval

(3) Where in the opinion of the Commission it is in the public interest to do so, the Commission may refuse to grant its approval or grant its approval on such terms and conditions as it deems necessary. 1958, c. 77, s. 9 (3).

Extension  
of sewage  
works into  
another  
municipality

**32.—**(1) Where any municipality contemplates extending its sewage works into another municipality or other municipalities, the Commission shall, before giving its approval under section 31, hold a public hearing and give at least ten days notice of the hearing to the clerk of each other municipality concerned and to such other persons and in such manner as the Commission may direct. 1957, c. 88, s. 32 (1).

Hearing

(2) Any public hearing required by this section may be held by any two members of the Commission. 1958, c. 77, s. 10.

Powers of  
municipality  
after  
approval

(3) Where the Commission has given its approval under section 31 to an extension under subsection 1, the municipality undertaking the extension may enter upon, take and use such lands in such other municipality or municipalities as may be necessary, and for that purpose has the same powers within such municipality or municipalities as it has within its own municipality, and paragraph 83 of subsection 1 of section 379 of *The Municipal Act* does not apply.

R.S.O. 1960,  
c. 249

Commission  
may vary  
approval

(4) The Commission may amend or vary any approval given under section 31 to an extension under subsection 1, but before so acting the Commission shall comply with the requirements of subsection 1 with respect to the holding of a public hearing and the giving of notice thereof.

Application  
to Board

(5) Where the Commission has given its approval under section 31 to an extension under subsection 1, the municipality undertaking the extension, before proceeding therewith, may apply to the Board for an order,



- (a) stopping up and closing any highway, road or road allowance, temporarily or permanently, for the purpose of allowing the extension to be carried on and vesting it in the municipality undertaking the extension and providing for the opening of another highway, road or road allowance in lieu of the highway, road or road allowance so stopped up and closed, and section 91 of *The Registry Act* does not apply; R.S.O. 1960,  
c. 348
- (b) ordering that any building restrictions, covenants running with the land or any limitations placed upon the estate or interest of any person in any lands upon or through which it is proposed that the extension may be constructed shall be terminated and shall be no longer operative or binding upon or against any person, and directing that any such order be registered under *The Registry Act*;
- (c) fixing the compensation for lands taken or injuriously affected in the construction, maintenance or operation of the extension,

and notice of the application shall be given to the clerk of each other municipality concerned and to such other persons and in such manner as the Board may direct.

(6) The registration of an order under clause *b* of subsection 5 is a bar to any action or proceeding taken by any person claiming any right or benefit under or by reason of any such restrictions, covenants, interests, estate or title in the lands described in the order. Registration  
of order

(7) Where sewage works of a municipality are extended into another municipality, the municipality into which the sewage works are extended may make an agreement with the owner of the sewage works for the connecting with and the use of the sewage works. Agreements  
as to use

(8) Where a municipality into which sewage works are extended is unable to make an agreement under subsection 7, the Board, upon an application authorized by by-law of its council, may confer the right to make use of the sewage works upon the applicant municipality and the inhabitants thereof whose properties may be conveniently served by the sewage works and prescribe the terms and conditions of such use. Application  
by municipality

(9) Where an agreement is made under subsection 7 or an order is made under subsection 8, the municipality into which the sewage works are extended may assess, levy and collect as taxes the amounts to be paid under the agreement Municipality may  
collect as  
taxes  
amounts  
agreed or  
ordered to  
be paid

or order in the same manner and to the same extent as if the sewage works constituted a public utility owned by the municipality. 1957, c. 88, s. 32 (2-8).

Powers of  
Board

**33.** The Board may inquire into, hear and determine any application by or on behalf of any municipality or person complaining that any municipality constructing, maintaining or operating sewage works or having the control thereof,

- (a) has failed to do any act, matter or thing required to be done by an Act or regulation, order or direction, or by any agreement entered into with the municipality; or
- (b) has done or is doing any such act, matter or thing improperly,

and that the same is causing deterioration, loss, injury or damage to property, and the Board may make any order, award or finding in respect of any such complaint as it deems just. 1957, c. 88, s. 33.

Right to  
compensa-  
tion

**34.—**(1) Where land is expropriated by a municipality for sewage works or is injuriously affected by the construction, maintenance or operation of sewage works by a municipality, the right to compensation is as provided by section 337 of *The Municipal Act* and, except as provided in this section, sections 337 and 340 to 346 of *The Municipal Act* apply thereto.

R.S.O. 1960,  
c. 249

Claims  
determined  
by Board

(2) All claims for compensation for lands expropriated for sewage works or injuriously affected by the construction, maintenance or operation of sewage works by a municipality shall be heard and determined by the Board and not otherwise, and *The Ontario Municipal Board Act*, as far as practicable, applies to every application made to the Board under this section whether or not the sewage works are located in one or more than one municipality. 1957, c. 88, s. 34.

R.S.O. 1960,  
c. 274

Construction  
or operation  
of approved  
sewage  
works by  
statutory  
authority

**35.** Sewage works that are being or have been constructed, maintained or operated with the approval of the Department of Health or the Commission and in accordance with the terms and conditions imposed in any order, direction, report or regulation of the Department of Health or of the Commission, of the Minister of Health or of the Board under the authority of this Act or any predecessor of any provision of this Act, so long as the sewage works are being so constructed or are so constructed, maintained or operated, shall be deemed to be under construction, constructed, maintained or operated by statutory authority. 1957, c. 88, s. 35.

**36.** The owner of sewage works shall whenever required by the Commission make returns to the Commission of such matters as may be required by the Commission, and any such owner who for the space of thirty days after being so required fails or neglects to make the returns required is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1957, c. 88, s. 36.

Returns by  
owner to  
Commission

**37.** Sewage works shall at all times be maintained, kept in repair and operated in such manner and with such facilities as may be directed from time to time by the Commission. 1957, c. 88, s. 37.

Sewage  
works to  
be kept in  
repair

**38.**—(1) Where the Commission reports in writing to the clerk of a municipality that it is of the opinion that it is necessary in the public interest that water works or sewage works or any part thereof be established, maintained, operated, improved, extended, enlarged, altered, repaired or replaced, it is not necessary to obtain the assent of the electors to any by-law for incurring a debt for any such purpose and the municipality shall forthwith do every act and thing in its power to implement the report of the Commission.

Duty to  
maintain,  
etc., works

(2) Every municipality that fails to do every act and thing in its power to implement a report made to it under subsection 1 forthwith after receipt of the report is guilty of an offence and on summary conviction is liable to a fine of \$500 for every day upon which such default continues after receipt of the report. 1957, c. 88, s. 38.

Offence

#### PROJECTS

**39.**—(1) Any one or more municipalities may apply to the Commission for the provision of and operation by the Commission of water works or sewage works for the municipality or municipalities.

Application  
for water  
or sewage  
works

(2) The Commission may thereupon furnish to such municipality or municipalities,

Duty of  
Commission

- (a) an estimate of the cost of the project and such other information as the Commission may deem advisable;
- (b) a statement of the terms and conditions upon which the Commission will complete and operate the project; and
- (c) a form of agreement to be entered into between the municipality or municipalities and the Commission.

(3) The council of any municipality may by by-law authorize the municipality to enter into such an agreement with the Commission and, subject to the approval of the Lieutenant

Power to  
make  
agreement



Governor in Council, the Commission may enter into any such agreement with any municipality or municipalities and, when such an agreement has been entered into, the parties thereto have all such powers as may be necessary to carry out the provisions thereof or of any undertaking given pursuant thereto.

Assent of  
electors not  
required  
R.S.O. 1960,  
c. 249

(4) Notwithstanding *The Municipal Act* or any other Act, it is not necessary for the council of any municipality to obtain the assent of the electors to the passing of any such by-law or the entering into of any such agreement with the Commission and no indebtedness of the Commission and no indebtedness of a municipality to the Commission shall be included in the general debt of a municipality for the purpose of the recitals in any by-law of that municipality for the creation of a debt by the issue of debentures.

Commission  
to act for  
municipality  
for approval  
of Board

(5) Where a municipality that proposes to enter into an agreement with the Commission is required to obtain the approval of the Board with respect to any aspect of the proposed project, the application for such approval shall be made by the Commission on behalf of the municipality.

Term of  
agreement

(6) Notwithstanding any other Act, every such agreement remains in force for such period as it may prescribe and in any event until all obligations to the Commission of the municipality or municipalities party or parties to the agreement have been discharged to the satisfaction of the Commission.

Agreement  
binding on  
local board

(7) Where a municipality has entered into an agreement with the Commission under this section, the agreement is binding on any commission or local board having the control and management of water works or sewage works, as the case may be, in the municipality. 1957, c. 88, s. 39.

Form of  
agreement

(8) Any agreement under this section may be evidenced by one or more documents. 1958, c. 77, s. 11.

Payments by  
municipal-  
ities to  
Commission  
under  
agreement

**40.**—(1) Every municipality that has entered into an agreement with the Commission under section 39 shall pay to the Commission the following sums or, where such agreement is with more than one municipality, or where the project requires more than one agreement at least one of which is with a municipality, its share as adjusted by the Commission of the following sums:

1. In each calendar year during the currency of such agreement, commencing with the calendar year in which occurs the date of completion of such project,
  - (a) the proportion payable by the municipality or municipalities party or parties to the

project, as adjusted by the Commission, of the total amount of interest and expenses of debt service payable by the Commission in each such year in respect of all borrowings of the Commission from time to time outstanding and made by the Commission at any time before or after the making of such agreement for the purpose of meeting the cost or estimated cost of all projects at any time theretofore or thereafter acquired, provided or constructed or in course of acquisition, provision or construction by the Commission pursuant to any agreement or agreements, or for any other purpose of the Commission respecting such projects including the refunding or repayment in whole or in part of any such borrowings;

- (b) the total cost to the Commission in each such year of the operation, supervision, maintenance, repair, administration and insurance of such project; and
- (c) the total amount in each such year placed by the Commission to the credit of the reserve account for renewals, replacements and contingencies in respect of such project or an amount equal to  $1\frac{1}{2}$  per cent of the cost of such project, whichever is less.

2. In each calendar year for such period of years as may be prescribed by such agreement, commencing not later than the fifth calendar year next following the date of completion of such project, such sum as would be necessary with interest compounded annually thereon at the rate of  $3\frac{1}{4}$  per cent per annum to form at the expiry of such period of years a fund equal to the cost of such project. 1957, c. 88, s. 40 (1); 1958, c. 77, s. 12.

(2) The Commission shall annually adjust and apportion among the respective municipalities the sums payable to the Commission by such municipalities under subsection 1. Annual  
adjustment  
of payments

(3) In the event of any dispute arising as to the adjustment or apportionment of any sums payable to the Commission by the respective municipalities under subsection 1, such dispute shall be referred to a sole arbitrator to be appointed by the Lieutenant Governor in Council, and the award of the arbitrator is final and binding on the Commission and the municipality or municipalities concerned. Settlement  
of disputes

Costs

(4) Such arbitrator shall be paid for his services such amount as may be directed by the Lieutenant Governor in Council and the whole costs of such arbitration shall be paid as directed by the arbitrator in his award.

R.S.O. 1960,  
c. 250  
to apply

(5) Except as otherwise provided in this section, *The Municipal Arbitrations Act* applies to any arbitration under subsection 3. 1957, c. 88, s. 40 (2-5).

Sewer rates  
and water  
works rates

**41.—**(1) The council of a municipality that has entered into or proposes to enter into an agreement with the Commission under section 39 may by by-law, subject to the approval of the Board, provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the project a sewer rate or water works rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Commission required to be made under clause *a* of paragraph 1 and paragraph 2 of subsection 1 of section 40 and, with the like approval, such by-law may from time to time be amended or repealed.

Sewage  
service rate  
and water  
service rate

(2) The council of a municipality that has entered into or proposes to enter into an agreement with the Commission under section 39 may by by-law provide for imposing upon owners or occupants of land from which sewage is received, treated or disposed of or to which water is supplied through or by the project a sewage service rate or water service rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Commission required to be made under clauses *b* and *c* of paragraph 1 of subsection 1 of section 40.

R.S.O. 1960,  
c. 249,  
application  
of s. 380.

(3) Subject to this section, section 380 of *The Municipal Act* applies *mutatis mutandis* to sewer rates and sewage service rates imposed under this section.

Idem

(4) Every water works rate or water service rate imposed under this section shall, in so far as is practicable and subject to this section, be imposed in the same manner and with and subject to the same provisions as apply to a sewer rate or sewage service rate, respectively, under section 380 of *The Municipal Act*, and that section applies *mutatis mutandis* to the imposition of such rates. 1958, c. 77, s. 13.

When  
payments to  
be made

**42.—**(1) As soon as practicable in each calendar year, and in any event not later than the 15th day of February, the Commission shall estimate the respective amounts payable to the Commission in such calendar year by each of the municipalities having agreements with the Commission under section 39 and shall by its precept directed to each municipality



require such municipality to pay to the Commission on the dates specified in the agreement the sums so payable by each municipality and the municipality shall make payment to the Commission accordingly, but in the calendar year in which occurs the date of completion of the project the estimate by the Commission may be made and the precept of the Commission may be delivered at any time in such year as the Commission may determine and the payment or payments by the municipality shall be made at such time or times as the Commission may require.

(2) At the end of each calendar year, the actual sums <sup>Adjustment</sup> payable by each municipality to the Commission for such year for the purposes aforesaid shall be ascertained by the Commission and the Commission shall inform the municipality of the amount owing to or by it and such amount shall be deducted from or added to the first payment to be made by the municipality in the next calendar year.

(3) The mailing by the Commission of the precepts by <sup>Delivery</sup> registered mail in envelopes addressed to the clerks of the respective municipalities constitutes delivery of the precepts to them. 1957, c. 88, s. 42 (1-3).

(4) A municipality may pay and the Commission may <sup>Prepayment</sup> accept, in advance of the time that it would otherwise be payable, any sum in respect of any sum mentioned in section 40. 1959, c. 70, s. 2 (1).

(5) Any amount due and payable by a municipality to the <sup>Recovery</sup> Commission, together with interest after default at the rate of 6 per cent per annum, may be recovered with costs in a court of competent jurisdiction as a debt due to the Commission by the municipality. 1957, c. 88, s. 42 (4).

(6) For the purpose of meeting the periodic payments to the Commission under an agreement, a municipality may <sup>Municipalities may raise moneys for agreements</sup> raise money by any method or methods authorized by law or by any combination thereof as if the municipality itself were proposing to construct, were constructing or had constructed the works or were operating and maintaining the works. 1959, c. 70, s. 2 (2).

**43.—**(1) The Commission may establish and maintain a <sup>Reserve accounts</sup> reserve account in respect of each project under section 39,

- (a) to provide for renewals and replacements in respect of the project; and
- (b) to provide for contingencies in respect of such project,

and may place to the credit of such reserve accounts, and expend, use, apply, utilize and appropriate therefrom for

such purposes such amounts as may in the opinion of the Commission be sufficient therefor.

Idem

(2) The accounts of the Commission shall be kept so as to exhibit at all times the amounts placed by the Commission to the credit of each reserve account, the interest credited thereon and the payments made by the Commission in respect thereof.

O.W.R.C.  
Reserve  
Account

(3) All amounts placed by the Commission to the credit of all reserve accounts under subsection 1 shall be deposited by the Commission as a consolidated fund in a chartered bank to the credit of a special bank account to be called "Ontario Water Resources Commission Reserve Account" and the earnings in each year on the consolidated fund and on the investments thereof shall be allocated and credited by the Commission at the end of each year to each reserve account proportionately having regard to the respective balances from time to time remaining to the credit of the respective reserve accounts. 1957, c. 88, s. 43.

O.W.R.C.  
Debt  
Retirement  
Account

**44.**—(1) All moneys received by the Commission from all municipalities under paragraph 2 of subsection 1 of section 40 shall be deposited by the Commission as a consolidated fund in a chartered bank to the credit of a special bank account to be called "Ontario Water Resources Commission Debt Retirement Account" and may be applied by the Commission to the purchase or redemption before maturity of debentures of the Commission or to the repayment in whole or in part of any debentures issued by the Commission, of any advances made by the Province to the Commission, of any debentures of the Commission issued and delivered to the Treasurer of Ontario in respect of such advances or of any other obligation, liability or indebtedness of the Commission, provided always that the moneys paid by any municipality and deposited in the Commission Debt Retirement Account in respect of any project shall be retained in the Commission Debt Retirement Account and kept invested until the expiration of the period of years during which payments are required to be made by such municipality in respect of such project under paragraph 2 of subsection 1 of section 40.

Idem

(2) The earnings in each year on the consolidated fund and on the investments thereof shall be allocated and credited by the Commission at the end of each year to the respective projects proportionately having regard to the respective balances in the fund from time to time attributable to such projects and the accounts of the Commission shall be kept so as to exhibit at all times the amounts received under paragraph 2 of subsection 1 of section 40 in respect of such projects and the earnings allocated and credited thereto.

(3) If at any time the amount in the consolidated fund in cash or in investments attributable to any project is, in the opinion of the Commission, sufficient with the further estimated interest thereon to form at the expiration of the period of years referred to in paragraph 2 of subsection 1 of section 40 a fund equal to the cost of the project, the Commission, subject to subsection 4 of this section, may authorize the municipality or municipalities with whom the Commission has an agreement in respect of such project to discontinue any further payments under paragraph 2 of subsection 1 of section 40.

Discontinu-  
ance of  
further  
payments

(4) If at the expiration of such period of years the amount in the consolidated fund in cash or in investments attributable to any project,

Excess or  
deficiency

(a) is in excess of the cost of the project, the Commission shall within one year thereafter repay to such municipality or municipalities the amount of such excess; or

(b) is less than the cost of the project, the municipality or municipalities shall, within one year thereafter, pay to the Commission the amount of such deficiency. 1957, c. 88, s. 44.

(5) Notwithstanding any other provision of this Act, the Commission may at any time, with the consent of the Treasurer of Ontario, pay any sum out of the Commission Debt Retirement Account to the Province in payment or part payment of any sums owing to the Province by the Commission so long as the total amount so paid in any year does not exceed the total amount borrowed by the Commission from the Province in that year. 1959, c. 70, s. 3.

Discharge  
of indebted-  
ness to  
Province

**45.—**(1) The moneys from time to time in the Commission Reserve Account and in the Commission Debt Retirement Account shall be invested by an investment committee composed of three persons appointed by the Lieutenant Governor in Council, any of whom may be paid out of the funds of the Commission such remuneration as the Lieutenant Governor in Council may determine.

Investment  
Committee

(2) Each member of the investment committee shall, before entering into the duties of his office, give security for the faithful performance of his duties and for duly accounting for and paying over all moneys and securities that come into his hands, such security to be given in such form and manner and in such amount as the Treasurer of Ontario may approve.

Security

(3) The members of the investment committee may appoint a chairman and a vice-chairman from among their number and

Officers



the secretary of the Commission shall act as the secretary of the investment committee.

**Quorum**

(4) Two members of the investment committee constitute a quorum and all investments and disposals of investments shall be approved by a majority of all the members of the investment committee.

**Jurisdiction**

(5) The Commission Reserve Account and the Commission Debt Retirement Account and the securities in which the moneys therein may from time to time be invested shall be under the sole control and management of the investment committee and all cheques on the Commission Reserve Account and the Commission Debt Retirement Account shall be signed by any two members of the investment committee.

**Duties**

(6) The investment committee shall invest and keep invested all moneys in the Commission Reserve Account and in the Commission Debt Retirement Account and may at any time vary or dispose of any such investments, and all earnings on investments and all receipts from the sale or maturity of investments shall be deposited in the respective Accounts.

**Powers**

(7) The moneys in the Commission Reserve Account and in the Commission Debt Retirement Account may be invested in any manner permitted for the investment of the funds of the Commission under section 20 or in time-deposit accounts in any chartered bank of Canada in either Canadian or United States dollars, and the moneys in the Commission Debt Retirement Account may also be invested in debentures of the Commission, but, if any such moneys are used to purchase or redeem debentures issued by the Commission before the maturity thereof, the debentures so purchased or redeemed shall not be cancelled but shall be retained as investments and shall continue to bear interest until maturity.

**Requisition  
of money**

(8) Upon the written request of the Commission under its corporate seal and the hands of its chairman or vice-chairman and secretary stating that a sum of money is required by the Commission for a purpose mentioned in section 43 or 44, the investment committee shall pay such sum to the Commission out of the Commission Reserve Account or the Commission Debt Retirement Account, as the case may be, and the receipt of the secretary of the Commission for such moneys is sufficient discharge to the investment committee for such payment and the investment committee shall not be held responsible for the application of such moneys.

**Expenses**

(9) All expenses and disbursements of the investment committee shall be paid by the Commission.

**Custody of  
securities**

(10) All securities or investments at any time acquired by the investment committee shall be deposited with the Trea-

suror of Ontario and kept in the custody of such officer of the Treasury Department as may be designated by the Treasurer of Ontario for the purpose, and no such securities shall be released from such custody except upon the written request of any two members of the investment committee.

(11) The investment committee have absolute and un-<sup>Discretion absolute</sup> controlled discretion in the exercise of their powers and the discharge of their duties and in the absence of fraud are not responsible for any loss, costs, damages or inconvenience that may result, and are not to be held responsible for any loss that may be occasioned by reason of any investment made by them. 1957, c. 88, s. 45.

**46.** For the purposes of section 43 of *The Assessment Act*,<sup>Annual payments to municipalities in lieu of taxes R.S.O. 1960, c. 23</sup> the Commission, with respect to any project in a city, town, village or township, shall be deemed a commission under clause *a* of subsection 1 of that section and the project shall be deemed a public utility under clause *b* of subsection 1 of that section. 1960, c. 79, s. 1.

#### REGULATIONS

**47.—**(1) Subject to the approval of the Lieutenant<sup>Regulations</sup> Governor in Council, the Commission may make regulations,

- (a) regulating and controlling the location, construction, repair, removal or alteration of mains, service pipes, valves, hydrants and all other works in or upon public property that form part of or are connected with water works;
- (b) regulating and controlling the manner in which the service pipes of users of water shall be connected with the mains of the water works supplying the water;
- (c) regulating and controlling the location, construction, repair, removal or alteration of sewers, drain pipes, manholes, gully traps and all other works in or upon public property that form part of or are connected with sewage works;
- (d) regulating and controlling the manner in which building sewers shall be connected with sewage works;
- (e) regulating and controlling the construction, repair, renewal or alteration of plumbing, the material to be used in the construction of, and the location of, drains, pipes, traps and other works and appliances that form part of or are connected with the plumbing in any building or structure, and requiring municipi-

palities to carry out such inspections with respect to plumbing as may be prescribed;

- (f) regulating and controlling the content of sewage entering sewage works;
- (g) prescribing standards of quality for potable and other water supplies, sewage and industrial waste effluents, receiving streams and water courses;
- (h) prescribing operating standards for water works or sewage works; 1957, c. 88, s. 46 (1), cls. (a-h).
- (i) regulating and controlling the location, spacing, boring and drilling of water wells, the construction and materials used in the construction, alteration or repair of water wells, the pumps and other equipment used in connection with water wells, the use of water wells, the abandonment of water wells, the cleansing and disinfection of water wells, prescribing the records and the form of the records with respect to water wells that shall be kept by the owners thereof and defining "owner" for the purpose of this clause; 1957, c. 88, s. 46 (1), cl. (i); 1958, c. 77 s. 15 (1).
- (j) prescribing the forms required for the purposes of section 29 and the fees for licences authorized thereby and for the renewal of such licences, and prescribing the terms and conditions upon which such licences may be issued; 1957, c. 88, s. 46 (1), cl. (j).
- (k) regulating and controlling the use of water from any source of supply;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1958, c. 77, s. 15 (2).

Application  
of  
regulations

(2) The application of any regulation made under this section may be general or may be limited territorially or as to time or otherwise.

Offence

(3) Every person who contravenes any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$500. 1957, c. 88, s. 46 (2, 3).

#### MISCELLANEOUS

Multiple  
informations

**48.** An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. 1960, c. 79, s. 2, *part.*



**49.** In any prosecution under this Act or the regulations or in any proceeding in the Supreme Court under this Act, the production of a certificate or report of an analyst of the Commission as to the analysis, ingredients or quality of any water or of any material, whether liquid, gaseous or solid or of any combination thereof, is *prima facie* evidence of the facts stated therein and of the authority of the person making the certificate or report without any proof of appointment or signature. 1960, c. 79, s. 2, *part*.

**50.** If an industrial or commercial enterprise makes arrangements for sewage disposal that are deemed unsatisfactory by the Commission, or makes no arrangements for sewage disposal, the Commission, with the approval of the Minister, may require such industrial or commercial enterprise to install, construct or arrange such sewage treatment facilities or additional sewage treatment facilities as the Commission deems necessary, and to maintain, keep in repair and operate such facilities in such manner and to such extent as may be directed from time to time by the Commission. 1960, c. 79, s. 2, *part*.



## CHAPTER 282

**The Operating Engineers Act****1. In this Act,**Interpre-  
tation

1. "board" means the board of examiners appointed under this Act;
2. "brake horse-power" means the effective or useful horse-power developed by a prime-mover or electric motor as measured by a brake applied to the driving shaft;
3. "certificate of qualification" means a certificate of qualification issued under this Act;
4. "certificate of registration" means a certificate of registration issued under this Act;
5. "chief operating engineer" means an operating engineer who is responsible for and supervises the operation of a plant;
6. "chief operator" means an operator who is responsible for and supervises the operation of a compressor or refrigeration plant;
7. "compressor plant" means the installation of a compressor or compressors, engines and equipment used in connection therewith, used for compressing air or other non-refrigerant gas where the horse-power rating of the plant exceeds 75 and the safety valves are set to relieve the pressure at more than 15 pounds;
8. "high-pressure stationary steam-plant" means the installation of a boiler or boilers, compressor or compressors, engines and equipment used in connection therewith, where the horse-power rating of the plant exceeds 25 and the safety valves are set to relieve the pressure at more than 15 pounds;
9. "hoisting plant" means a hoist equipped with a drum and cable powered by an internal combustion engine or by electric motors used as a unit for raising, lowering or swinging material where the total horse-power of the plant exceeds 25;



10. "horse-power of a boiler" means the horse-power as calculated from the following formulas:

- i. one horse-power equals 15 square feet of heating surface in return tubular boilers,
- ii. one horse-power equals 12 square feet of heating surface in internally-fired boilers,
- iii. one horse-power equals 10 square feet of heating surface in water-tube boilers,
- iv. one horse-power equals 10 kilowatts in electric boilers, or
- v. one horse-power equals the evaporation of  $34\frac{1}{2}$  pounds of water per hour from and at  $212^{\circ}\text{F.}$  in other types of steam generators;

11. "horse-power of an internal combustion engine" means the horse-power as calculated from the following formula:

$$\text{H.P.} = \frac{(\text{diam. of cylinders in inches})^2 \times \text{number of cylinders}}{2.5}$$

12. "inspector" means an inspector appointed under this Act;

13. "low-pressure stationary steam-plant" means the installation of a boiler or boilers, compressor or compressors, engines and equipment used in connection therewith, where the horse-power rating of the plant exceeds 75 and the safety valves are set to relieve the pressure at 15 pounds or less;

14. "Minister" means the Minister of Labour;

15. "operating engineer" or "operator" means a person who is the holder of a certificate of qualification issued under this Act;

16. "owner" means the person, firm, corporation or association for the time being in possession of any plant;

17. "plant" means a high-pressure stationary steam-plant, low-pressure stationary steam-plant, steam-engine plant, compressor plant, refrigeration plant, hoisting plant, steam hoisting-plant or traction plant, or any combination thereof;

18. "pressure" means pressure in pounds per square inch measured by a pressure gauge;

19. "refrigerant" means a substance used to produce refrigeration by its expansion or vaporization;
20. "refrigeration plant" means the installation of a compressor or compressors, engines and equipment used in connection therewith, used for compressing any refrigerant where the horse-power rating of the plant exceeds 50 and the safety-valves are set to relieve the pressure at more than 15 pounds;
21. "registered horse-power" means the horse-power rating of a plant specified on the certificate of registration issued to the owner of the plant;
22. "regulations" means the regulations made under this Act;
23. "shift engineer" means an operating engineer or operator who has charge of and operates any plant under the direction and supervision of a chief operating engineer;
24. "shift operator" means an operator who has charge of and operates a compressor or refrigeration plant under the direction and supervision of a chief operating engineer or chief operator;
25. "steam-engine plant" means the engines or turbines operated by steam supplied from a boiler or boilers situated on premises other than the premises on which the engines or turbines are situated;
26. "steam hoisting-plant" means a hoist equipped with a drum and cable powered by a boiler and engine used as a unit for raising, lowering or swinging material;
27. "traction plant" means an automotive air pressure vessel or an automotive steam pressure vessel.  
1953, c. 78, s. 1; 1957, c. 89, s. 1.

**2. This Act does not apply,**

**Exemptions  
from Act**

- (a) to persons working under the personal direction and supervision of an operating engineer or operator;
- (b) to workmen engaged in installing or testing a plant;
- (c) to shaft-hoists used in mining operations;
- (d) to permanently installed elevators or freight conveyances;
- (e) to overhead cranes powered by electric motors and operating on a fixed runway;

- (f) to any high-pressure or low-pressure stationary steam-plant or traction plant while used in farming as distinguished from horticultural operations;
- (g) to any plant subject to inspection by The Board of Transport Commissioners for Canada;
- (h) to any boiler used in connection with an open type hot water heating system. 1953, c. 78, s. 2; 1957, c. 89, s. 2.

**Appointment of board**

**3.**—(1) The Lieutenant Governor in Council may appoint a board of examiners to be composed of not less than three members and may designate one of them as chairman of the board.

**Duties of board**

(2) It is the duty of the board to conduct examinations and to report thereon to the Minister with its recommendations and to administer and enforce this Act. 1953, c. 78, s. 3.

**Inspectors**

**4.**—(1) The Lieutenant Governor in Council may appoint inspectors to carry out inspections under this Act.

**Inspection**

(2) Any member of the board, any inspector or any person authorized in writing by the Minister may enter and inspect any building or premises where he has reason to believe a plant is being installed or operated. 1953, c. 78, s. 4.

**Registration of plants**

**5.**—(1) Every owner of a high-pressure stationary steam-plant, low-pressure stationary steam-plant, steam-engine plant, compressor plant or refrigeration plant or any combination thereof shall register the plant with the board on the prescribed form and shall furnish such information as may be required by the board for the purposes of this Act. 1953, c. 78, s. 5 (1).

**Combined plant**

(2) Where more than one plant is located on the same premises, the owner may, with the approval of the board, register each plant separately. 1957, c. 89, s. 3.

**Change in pressure or horse-power of plant**

(3) The owner of a registered plant shall, within fifteen days of any change in the pressure or horse-power rating of the plant, notify the board of such change.

**Re-registration**

(4) When the pressure or horse-power rating of a registered plant is changed sufficiently to change the classification of the plant, the certificate of registration then in force in respect of such plant shall be cancelled and a new one issued in accordance with the new classification of the plant upon payment of the prescribed fee. 1953, c. 78, s. 5 (3, 4).

**Certificate of registration, issue**

**6.**—(1) The Minister, on the recommendation of the board and on payment of the prescribed fee, shall issue to the owner of a plant a certification of registration.



(2) Every certificate of registration shall show, contents

- (a) the horse-power rating of the plant;
- (b) the pressure at which the safety-valves on boilers are set to relieve the pressure; and
- (c) the class of operating engineer or operator required as chief operating engineer or chief operator, shift engineer or shift operator and assistant shift engineer. 1953, c. 78, s. 6.

7. Every certificate of registration shall be displayed in a conspicuous manner in the engine room, compressor room or boiler room of the registered plant. 1953, c. 78, s. 7. Display of certificate

8. Every owner of an internal combustion engine or an electric motor, used in a hoisting plant, shall furnish the board with such information as the board may require for the purposes of this Act. 1953, c. 78, s. 8. Information as to engines and motors in a hoisting plant

9.—(1) The horse-power rating, Computation of horse-power rating

- (a) of a high-pressure stationary steam-plant where,
  - (i) boilers, engines and equipment used in connection therewith only are installed, or
  - (ii) boilers having a horse-power exceeding 200 and compressors with a motive power other than steam are installed,

is the sum of the horse-power of the boilers installed, the brake horse-power rating of the motive power driving the compressors other than air and one-half of the brake horse-power rating of the motive power driving the air-compressors;

- (b) of a high-pressure stationary steam-plant where,
  - (i) boilers having a horse-power not exceeding 200, and
  - (ii) compressors with a motive power other than steam,

are installed, is the horse-power determined by the board in each case;

- (c) of a low-pressure stationary steam-plant is the sum of the horse-power of the boilers installed, the brake horse-power rating of the motive power driving the compressors other than air and one-half of the brake horse-power rating of the motive power driving the air-compressors;

- (d) of a combined high-pressure and low-pressure stationary steam-plant or of a combined refrigeration and compressor plant is the horse-power determined by the board in each case;
- (e) of a refrigeration plant in which the motive power is other than steam and no boiler is installed is the brake horse-power rating of the motive power driving the compressor or compressors;
- (f) of a compressor plant in which the motive power is other than steam and no boiler is installed is the brake horse-power rating of the motive power driving the compressor or compressors;
- (g) of a steam-engine plant is the combined brake horse-power rating of the engines and turbines at full load. 1953, c. 78, s. 9 (1); 1957, c. 89, s. 4.

Certain  
horse-  
power not  
included

(2) For the purpose of computing the horse-power rating under subsection 1, the horse-power of steam-driven compressors and steam-driven engines or turbines shall not be included except where steam is supplied to drive the compressors, generators, engines or turbines from a plant other than the registered plant in which the compressors, generators, engines or turbines are situated. 1953, c. 78, s. 9 (2).

Classifica-  
tion of  
operating  
engineers

**10.**—(1) Operating engineers shall be classified as follows:

- 1. Stationary engineer (fourth, third, second or first class).
- 2. Provisional stationary engineer (fourth, third or second class).
- 3. Hoisting engineer.
- 4. Hoisting engineer (electrical and internal combustion).
- 5. Traction engineer.
- 6. Hoisting and traction engineer. 1953, c. 78, s. 10 (1).

Classifica-  
tion of  
operators

(2) Operators shall be classified as follows:

- 1. Compressor operator.
- 2. Refrigeration operator (B or A class). 1953, c. 78, s. 10 (2); 1957, c. 89, s. 5.

Work and  
duties that  
operating  
engineers  
and  
operators  
are qualified  
to perform

**11.**—(1) A stationary engineer (fourth class) holding a stationary engineer (fourth class) certificate is qualified to,

- (a) act as chief operating engineer in,

- (i) a high-pressure stationary steam-plant not exceeding 75 registered horse-power,
  - (ii) a low-pressure stationary steam-plant not exceeding 200 registered horse-power;
  - (iii) any portable compressor plant; or
- (b) act as shift engineer in,
- (i) a high-pressure stationary steam-plant not exceeding 200 registered horse-power,
  - (ii) a low-pressure stationary steam-plant not exceeding 600 registered horse-power,
  - (iii) a compressor or refrigeration plant not exceeding 400 registered horse-power; or
- (c) act as assistant shift engineer in,
- (i) a high-pressure stationary steam-plant not exceeding 600 registered horse-power,
  - (ii) a low-pressure stationary steam-plant, compressor or refrigeration plant of unlimited registered horse-power. 1953, c. 78, s. 11 (1); 1957, c. 89, s. 6 (1).

(2) A stationary engineer (third class) holding a stationary *Idem* engineer (third class) certificate is qualified to,

- (a) act as chief operating engineer in,
- (i) a high-pressure stationary steam-plant not exceeding 200 registered horse-power,
  - (ii) a low-pressure stationary steam-plant not exceeding 600 registered horse-power,
  - (iii) a compressor or refrigeration plant not exceeding 400 registered horse-power,
  - (iv) any portable compressor plant; or
- (b) act as shift engineer in,
- (i) a high-pressure stationary steam-plant not exceeding 600 registered horse-power,
  - (ii) a low-pressure stationary steam-plant, compressor or refrigeration plant of unlimited registered horse-power; or
- (c) act as assistant shift engineer in any plant of unlimited registered horse-power. 1953, c. 78, s. 11 (2); 1957, c. 89, s. 6 (2).



- Idem* (3) A stationary engineer (second class) holding a stationary engineer (second class) certificate is qualified to,
- (a) act as chief operating engineer in,
    - (i) a high-pressure stationary steam-plant not exceeding 600 registered horse-power,
    - (ii) a low-pressure stationary steam-plant, compressor or refrigeration plant of unlimited registered horse-power,
    - (iii) any portable compressor plant; or
  - (b) act as shift engineer in any plant of unlimited registered horse-power. 1953, c. 78, s. 11 (3); 1957, c. 89, s. 6 (3).
- Idem* (4) A stationary engineer (first class) holding a stationary engineer (first class) certificate is qualified to act as chief operating engineer in any plant of unlimited registered horse-power.
- Idem* (5) A provisional stationary engineer (fourth, third or second class) holding a provisional stationary engineer (fourth, third or second class) certificate is qualified to perform the same work and duties as a stationary engineer (fourth, third or second class), as the case may be. 1953, c. 78, s. 11 (4, 5).
- Idem* (6) A compressor operator holding a compressor operator certificate is qualified to,
- (a) act as a chief operator in a compressor plant of unlimited registered horse-power; or
  - (b) operate any portable compressor plant. 1957, c. 89, s. 6 (4).
- Idem* (7) A refrigeration operator (class B) holding a refrigeration operator (class B) certificate is qualified to,
- (a) act as chief operator in a refrigeration plant not exceeding 400 registered horse-power; or
  - (b) act as shift operator in a refrigeration plant of unlimited registered horse-power. 1953, c. 78, s. 11 (7); 1957, c. 89, s. 6 (5).
- Idem* (8) A refrigeration operator (class A) holding a refrigeration operator (class A) certificate is qualified to act as chief operator in a refrigeration plant of unlimited registered horse-power. 1957, c. 89, s. 6 (6).
- Idem* (9) A hoisting engineer holding a hoisting engineer certificate is qualified to operate a steam hoisting-plant, hoisting plant or portable compressor plant.

(10) A hoisting engineer (electrical and internal combustion) *Idem* holding a hoisting engineer (electrical and internal combustion) certificate is qualified to operate a hoisting plant or portable compressor plant.

(11) A traction engineer holding a traction engineer *Idem* certificate is qualified to operate a traction plant or portable compressor plant.

(12) A hoisting and traction engineer holding a hoisting *Idem* and traction engineer certificate is qualified to operate a steam hoisting-plant, hoisting plant, traction plant or portable compressor plant.

(13) A stationary engineer (fourth, third, second or first *Idem* class), hoisting engineer, traction engineer or hoisting and traction engineer is qualified to operate a portable boiler used in connection with a concrete mixer, drill, pump, stone crusher, portable saw mill, temporary heating plant or temporary asphalt plant. 1953, c. 78, s. 11 (8-12).

**12.**—(1) A high-pressure stationary steam-plant having a registered horse-power of more than 25 but not more than 75 requires a stationary engineer (fourth class) or better as chief operating engineer and as shift engineer. Class of  
operating  
engineer and  
operator  
required  
in plants

(2) A high-pressure stationary steam-plant having a registered horse-power of more than 75 but not more than 200 requires a stationary engineer (third class) or better as chief operating engineer and a stationary engineer (fourth class) or better as shift engineer. *Idem*

(3) A high-pressure stationary steam-plant having a registered horse-power of more than 200 but not more than 600 requires a stationary engineer (second class) or better as chief operating engineer and a stationary engineer (third class) or better as shift engineer. *Idem*

(4) A high-pressure stationary steam-plant having a registered horse-power of more than 600 requires a stationary engineer (first class) as chief operating engineer and a stationary engineer (second class) or better as shift engineer. 1953, c. 78, s. 12 (1-4). *Idem*

(5) Where more than one plant is located on the same premises but registered separately with the permission of the board, each separate plant requires operating engineers or operators as prescribed in this section. 1957, c. 89, s. 7 (1). *Idem*

(6) A low-pressure stationary steam-plant having a registered horse-power of more than 75 but not more than 200 requires a stationary engineer (fourth class) or better as chief operating engineer and as shift engineer. *Idem*

- Idem (7) A low-pressure stationary steam-plant having a registered horse-power of more than 200 but not more than 600 requires a stationary engineer (third class) or better as chief operating engineer and a stationary engineer (fourth class) or better as shift engineer.
- Idem (8) A low-pressure stationary steam-plant having a registered horse-power of more than 600 requires a stationary engineer (second class) or better as chief operating engineer and a stationary engineer (third class) or better as shift engineer. 1953, c. 78, s. 12 (6-8).
- Idem (9) A refrigeration plant having a registered horse-power of more than 50 but not more than 400 requires a refrigeration operator (class B) or a stationary engineer (third class) or better as chief operator or chief operating engineer and a refrigeration operator (class B) or stationary engineer (fourth class) or better as shift operator or shift engineer. 1957, c. 89, s. 7 (2).
- Idem (10) A refrigeration plant having a registered horse-power of more than 400 requires a refrigeration operator (class A) or a stationary engineer (second class) or better as chief operating engineer and a refrigeration operator (class B) or a stationary engineer (third class) or better as shift operator or shift engineer. 1957, c. 89, s. 7 (3).
- Idem (11) A compressor plant, except a portable compressor plant, having a registered horse-power of more than 75 but not more than 400 requires a compressor operator or a stationary engineer (third class) or better as chief operator or chief operating engineer and a compressor operator or a stationary engineer (fourth class) or better as shift operator or shift engineer. 1953, c. 78, s. 12 (11).
- Idem (12) A compressor plant, except a portable compressor plant, having a registered horse-power of more than 400 requires a compressor operator or a stationary engineer (second class) or better as chief operating engineer and a compressor operator or a stationary engineer (third class) or better as shift operator or shift engineer. 1953, c. 78, s. 12 (12); 1957, c. 89, s. 7 (4).
- Idem (13) A portable compressor plant requires a compressor operator, hoisting engineer, hoisting engineer (electrical and internal combustion), traction engineer, hoisting and traction engineer or stationary engineer (fourth class) or better. 1957, c. 89, s. 7 (5).
- Idem (14) A steam hoisting-plant requires a hoisting engineer or a hoisting and traction engineer.



(15) A hoisting plant having a power unit of more than 25 horse-power requires a hoisting engineer, a hoisting engineer (electrical and internal combustion) or a hoisting and traction engineer.

(16) A traction plant requires a traction engineer or a hoisting and traction engineer. 1953, c. 78, s. 12 (14-16).

**13.** When an operating engineer is absent from a plant due to sickness or holidays, an operating engineer holding a certificate one class lower may take charge and operate the plant for a period not exceeding thirty days in any one year or for such further period as the board may authorize. 1953, c. 78, s. 13.

**14.** When the chief operating engineer or shift engineer of a plant having a registered horse-power of 200 or less is absent from the engine room, compressor room or boiler room on matters pertaining to the plant for a period exceeding fifteen minutes, a stationary engineer (fourth class) or better shall be present and in charge of all boilers, compressors and engines. 1953, c. 78, s. 14.

**15.** When the chief operating engineer or shift engineer of a plant having a registered horse-power of more than 200 is absent from the engine room, compressor room or boiler room on matters pertaining to the plant, he shall arrange for a person holding a certificate not less than one class lower than that required to operate the plant as shift engineer to be present and in charge of all boilers, compressors and engines. 1953, c. 78, s. 15.

**16.** No person other than an operating engineer shall perform the work and duties of an operating engineer and no person other than an operating engineer or an operator shall perform the work and duties of an operator. 1953, c. 78, s. 16.

**17.** Subject to sections 13, 14 and 15, no operating engineer or operator shall perform any work or duties that he is not qualified to perform under section 11. 1953, c. 78, s. 17.

**18.** No person shall employ,

(a) any person who is not an operating engineer to perform the work and duties of an operating engineer; or

(b) any person who is not an operating engineer or an operator to perform the work and duties of an operator; or

- (c) any operating engineer or operator to perform any work or duties that he is not qualified to perform under section 11. 1953, c. 78, s. 18.

Prohibition  
to operate  
plant  
without  
certificate

**19.** No person shall perform the work and duties of an operating engineer or operator unless he is the holder of a certificate of qualification then in force. 1953, c. 78, s. 19.

Examination

**20.**—(1) Subject to the regulations and to subsection 2, every applicant for a certificate of qualification shall pass such examinations as the board may require.

Recom-  
mendation  
without  
examination

(2) The board may recommend that a provisional certificate of qualification be issued without examination to any person who in the opinion of the board holds a current certificate of an equivalent rating of a stationary engineer (fourth, third or second class) issued by the properly constituted authority in any other province in Canada.

Provisional  
certificate

(3) Every provisional certificate issued under subsection 2 shall be one grade lower than a stationary engineer (third, second or first class) certificate of equivalent rating to the certificate held by such person. 1953, c. 78, s. 20.

Issue of  
certificates  
of  
qualification

**21.** On the recommendation of the board and on payment of the prescribed fee, the Minister shall issue a certificate of qualification for any classification of operating engineer or operator to any British subject, or to any person who has lived in Canada for one year or longer and has filed a declaration of his intention to become a Canadian citizen under the *Canadian Citizenship Act*. 1953, c. 78, s. 21.

R.S.C. 1952,  
c. 33

Duplicates

**22.** Where a certificate of qualification has been lost or destroyed, the Minister, on the recommendation of the board and on payment of the prescribed fee, shall issue a duplicate certificate of qualification. 1953, c. 78, s. 22.

Cancellation  
and  
suspension

**23.** The Minister may cancel or suspend a certificate of qualification if the operating engineer or operator,

- (a) is habitually intemperate or addicted to the use of drugs;
- (b) operates a plant while in an intemperate condition;
- (c) becomes mentally incompetent or physically incapacitated;
- (d) is incompetent or negligent in the discharge of his duties;
- (e) has obtained his certificate through misrepresentation or fraud;

- (f) maliciously destroys his employer's property;
- (g) allows another person to operate under his certificate;
- (h) attempts to secure a certificate by false means for another person;
- (i) absents himself from the plant without being relieved of his duties by the proper person or without the consent of his chief operating engineer or chief operator or shift engineer;
- (j) leaves the employ of his employer without having given his employer at least seven days notice in writing of his intention to leave;
- (k) signs an application form of a candidate for examination without personally knowing that the written statement of engineering experience is true; or
- (l) contravenes any of the provisions of this Act or the regulations. 1953, c. 78, s. 23.

**24.**—(1) Subject to section 25, every certificate of qualification remains in force during the year ending the 31st day of December in which it is issued and until the date of renewal prescribed in subsection 2. Term of certificate of qualification

(2) Every operating engineer and operator shall pay the annual fee prescribed by the regulations on or before the first Monday of February in each year and upon payment thereof the Minister shall issue a renewal of a certificate of qualification. Renewal

- (3) No renewal certificate shall be issued, Reinstatement
- (a) where the fee for the previous year has not been paid, until the reinstatement fee prescribed by the regulations has been paid; or
  - (b) where the annual fee has not been paid for five consecutive years. 1953, c. 78, s. 24.

**25.** Every provisional certificate of qualification remains in force for one year from the date of issue unless sooner suspended or cancelled and is not renewable. 1953, c. 78, s. 25. Provisional certificate

**26.** Where the horse-power rating of a plant is increased to the extent that an operating engineer or operator of the plant would be operating a plant that he is not qualified to operate and if the operating engineer or operator has been operating the plant for three consecutive years immediately Increase in horse-power of plant



before the increase, he may continue to operate the plant but shall present himself for examination within six months after the increase takes place. 1953, c. 78, s. 26.

Certificates  
to be  
displayed

**27.** Every certificate of qualification shall at all times be displayed in a conspicuous manner in the engine room, compressor room or boiler room of the plant in which the holder thereof is employed, except in the case of a steam hoisting-plant, hoisting plant or traction plant, in which case the certificate shall be carried upon the person of the operator. 1953, c. 78, s. 27.

Absence of  
operating  
engineer or  
operator  
from duties

**28.** If an operating engineer or operator is unable to attend to his duties or intends to be absent for any reason, he shall make every reasonable effort to so notify his chief operating engineer or chief operator or shift engineer before absenting himself from his duties. 1953, c. 78, s. 28.

Appeal

**29.**—(1) Any person who deems himself aggrieved by a decision of the board may, within ten days after receipt of notice in writing of the decision, appeal in writing to the Minister who shall, upon notice to all interested parties, hear the appeal and approve, disapprove or vary the decision appealed against.

Idem

(2) The making of an appeal under this section does not affect the suspension or cancellation of a certificate of qualification pending the disposition of the appeal by the Minister. 1953, c. 78, s. 29.

Offence

**30.** Every person who contravenes any of the provisions of this Act or the regulations, or hinders or obstructs any person in the performance of his duties under this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. 1953, c. 78, s. 30.

Regulations

**31.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the qualifications of persons who may be appointed members of the board;
- (b) prescribing the qualifications of persons who may be appointed inspectors;
- (c) prescribing the qualifications of applicants for certificates of qualification and the evidence required to be furnished by applicants as to previous training and experience;

- (d) prescribing the duties and responsibilities of the chief operating engineer, chief operator, shift engineer or shift operator;
- (e) prescribing the conditions under which an applicant for a certificate of qualification who has failed to pass the examinations required by the board may be re-examined;
- (f) prescribing the fees to be paid on examination and re-examination by applicants for certificates of qualification;
- (g) prescribing the fees to be paid on the issue of certificates of registration;
- (h) providing for the issue and renewal of certificates of qualification and duplicates thereof and prescribing the fees therefor;
- (i) providing for the issue of provisional certificates of qualification and duplicates thereof and prescribing the fees therefor;
- (j) prescribing the reinstatement fees to be paid under clause *a* of subsection 3 of section 24;
- (k) prescribing forms and providing for their use;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1953, c. 78, s. 31; 1954, c. 67, s. 1.

**32.** All fees collected under this Act and all fines recovered for offences against this Act or the regulations shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1953, c. 78, s. 32.

Application  
of fees and  
fines

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## CHAPTER 283

## The Optometry Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Board of Examiners in Optometry;
- (b) "ophthalmic lens" means any form of lens or prism or the combination of the same, devised for the relief or correction of any visual or muscular error or defect of the eye;
- (c) "optician" means any person who dispenses any ophthalmic lens or lenses or spectacles or eye-glasses devised for the relief or correction of any visual or muscular error or defect of the eye, or fills any optometrist's or duly qualified medical practitioner's prescription for any such lenses, spectacles or eye-glasses;
- (d) "optometrist" means any person who practises optometry as herein defined;
- (e) "optometry" means the measurement of or the attempt to measure by any means, other than the use of drugs, the refractive or muscular condition of the eye, the prescribing of any ophthalmic lens or lenses or the prescribing of any spectacles or eye-glasses or ocular calisthenics to any person for the relief or correction of any visual or muscular error or defect of the eye;
- (f) "prescribe" includes the supply or loan by any person, or his agent, to any other person, of a mechanical instrument for the purpose of such other person, by means of such instrument, making a self-measurement of the refractive or muscular condition of the eye;
- (g) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 266, s. 1.

2.—(1) The Board shall be composed of five persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council.

**Chairman** (2) The Lieutenant Governor in Council may appoint one of the members to be chairman of the Board.

**Secretary** (3) The Board may appoint a secretary and fix his remuneration which shall be payable out of the funds of the Board. R.S.O. 1950, c. 266, s. 2.

**Regulations** **3.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) providing for a course of instruction in any technical school or other institution in Ontario for the training of persons to become optometrists or opticians;
- (b) prescribing the requirements for registration under this Act;
- (c) fixing the fees payable for the trial of examinations and for registration;
- (d) providing for the issuance and renewal of certificates of registration and of exemption and for the fees payable for such issuance and renewal;
- (e) prescribing the procedure of the Board at its meetings;
- (f) fixing the remuneration of the members of the Board and providing for the payment of necessary expenses of the Board in the conduct of its business;
- (g) prescribing the duties of the secretary and other persons employed by the Board;
- (h) defining disgraceful conduct for the purposes of this Act;
- (i) regulating the advertising of spectacles and eye-glasses, the advertising of the prices thereof, and the advertising of the terms upon which they may be purchased;
- (j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

**Amending or revoking regulations** (2) The Lieutenant Governor in Council may at any time amend or revoke any of the regulations. R.S.O. 1950, c. 266, s. 3.

**Register** **4.** The Board shall provide a register which shall be kept by the secretary and in which shall be entered the name, address and qualification of every person registered as an optometrist or optician in Ontario and every person who is the holder of a certificate of exemption. R.S.O. 1950, c. 266, s. 4.

5. Every person who files with the secretary of the Board an application, verified by oath or by statutory declaration, stating therein that the applicant is more than twenty-one years of age, is of good moral character, and possesses the qualifications as to general education, training and experience prescribed by the regulations, may be admitted to examination by the Board as to his qualifications as an optometrist or optician, and upon passing such examination shall be registered by the Board as possessing the qualifications required by this Act, and shall receive from the Board a certificate of such registration. R.S.O. 1950, c. 266, s. 5.

6. Every person who,

Certificate of exemption

- (a) on the 8th day of April, 1936, was carrying on business as an optometrist or optician in Ontario;
- (b) is a British subject by birth or naturalization;
- (c) is of good character;
- (d) possesses such education and technical qualifications as are prescribed by the regulations,

is entitled to receive from the Board a certificate of exemption from registration under this Act upon furnishing proof of such facts to the satisfaction of the Board and complying with the requirements contained in the regulations. R.S.O. 1950, c. 266, s. 6.

7.—(1) The Board may by order suspend or revoke the certificate of registration or exemption of any person whom it finds has been guilty of disgraceful conduct as defined by the regulations, or of incompetency, fraud or misrepresentation in connection with the practice of optometry or as an optician by such person.

Suspension of certificate

(2) Before making a find of disgraceful conduct, incompetency, fraud or misrepresentation against a person under subsection 1, the Board shall, by notice in writing, inform him of the complaint or charge that has been made against him and shall provide him with an opportunity of appearing before the Board at a public hearing and of presenting such evidence and making such representations as he desires.

Hearing

(3) The Board may review any finding or order made by it and make such further finding or order as it deems proper.

Review

(4) For the purposes of this section, the chairman or acting chairman of the Board has all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

Power to summon witnesses

R.S.O. 1960 c. 323



## Appeal

(5) An appeal lies from any order or finding of the Board to a judge of the Supreme Court by way of originating notice and such appeal shall be upon the evidence and representations presented and made to the Board and the judge may give such directions as he deems expedient and may make such findings and order as he deems proper and his decision is final. R.S.O. 1950, c. 266, s. 7.

## Offences

**8.**—(1) Every person, not being the holder of a certificate under this Act or whose certificate is for the time being suspended or has been revoked, who practises optometry or as an optician or appends to his name the term "optometrist" or "optician" or any abbreviation thereof, or wilfully or falsely pretends to be, or wilfully or falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead any person to believe that he is or is recognized by law as an optometrist or optician, as the case may be, or that he is registered or possesses a certificate as an optometrist or optician under this Act is guilty of an offence.

## Idem

(2) Every person, whether a holder of a certificate under this Act or not, who peddles or sells or offers for sale from door to door or who prescribes by mail spectacles or eye-glasses is guilty of an offence.

## Penalties

(3) Every person who is guilty of an offence under this Act is on summary conviction liable for a first offence to a fine of not less than \$10 and not more than \$100 and for a second or subsequent offence to a fine of not less than \$25 and not more than \$500. R.S.O. 1950, c. 266, s. 8.

## Board may establish schools of instruction

**9.**—(1) The Board may enter into agreements and arrangements with any recognized university in Ontario for the establishment of a faculty school and may make agreements and arrangements with schools and other educational institutions for the establishment of courses of study for persons seeking to qualify themselves to practise as optometrists and opticians and may establish and carry on its own schools of instruction and appoint such professors, lecturers, instructors, officers, servants and employees thereof as are deemed necessary.

## Powers of Board as to using moneys and holding lands

(2) The Board may use any moneys that have heretofore or may hereafter come into its hands for any of the purposes and objects mentioned in subsection 1, and the Board has all powers that may be necessary or convenient for such purposes and objects and shall be deemed trustees for such purposes and objects with power without licence in mortmain to acquire, hold, mortgage, charge, lease, sell or otherwise

deal with real estate and to borrow money for such purposes and objects and to secure payment thereof by mortgage or pledge of the real and personal property vested in the Board.

(3) The Board may take and execute any deed, mortgage, lease or other instrument under the name of "The Board of Examiners in Optometry", and every such deed, mortgage, lease or other instrument given and made by the Board shall be deemed to be sufficiently executed when executed under the hand of the chairman and secretary of the Board and sealed with the seal of the Board, and the Board may sue and be sued by and under such name. R.S.O. 1950, c. 266, s. 9.

**10.**—(1) Nothing in this Act applies to a duly qualified medical practitioner or to any person, firm or corporation carrying on business in Ontario as a *bona fide* wholesale manufacturer of optical goods who does not prescribe directly or indirectly by mail or through an agent or travelling salesman or otherwise in any manner whatsoever, any ophthalmic lens or spectacles or eye-glasses devised for the relief or correction of any visual or muscular error or defect of the eye.

(2) Nothing in this Act authorizes the Board to regulate, control or interfere with the prices that may be charged for eye-glasses or spectacles, the fees that may be charged for the examination of eyes or the prescribing of eye-glasses or spectacles or the terms upon which such charges or fees may be paid.

(3) Nothing in this Act prevents,

- (a) the practice by a retail merchant of optometry or as an optician at his ordinary place of business or the carrying on therein of an optical department, if the practice and optical department are in charge of a registered optometrist or a duly qualified medical practitioner; or
- (b) the selling or offering for sale by a retail merchant at his ordinary place of business of spectacles or eye-glasses; or
- (c) the provision by a retail merchant at his ordinary place of business of a test card or chart, other than a mechanical instrument, so that customers therein may select spectacles or eye-glasses kept for sale by him at his place of business; or
- (d) the furnishing or supplying through the mail by any person to any other person of a test card or chart, other than a mechanical instrument, whereby such other person may select spectacles or eye-glasses; or

Execution of  
instruments

Exemption  
from  
operation  
of Act

Interference  
with prices  
prohibited

Act does not  
prevent  
certain  
practices

- (e) the unrestricted sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens or lenses, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye. R.S.O. 1950, c. 266, s. 10.

Effect of  
1951 amend-  
ments when  
proclaimed

**11.** The amendments to the provisions of *The Optometry Act* in *The Optometry Amendment Act, 1951* when proclaimed in force shall be deemed to be amendments to the corresponding provisions of this Act. *New.*



## CHAPTER 284

**The Parents' Maintenance Act**

**1.** Where there is a juvenile and family court, proceedings <sup>Jurisdiction</sup> under this Act shall be heard in that court. 1954, c. 68, s. 1.

**2.** For the purposes of this Act, a parent shall be deemed to <sup>Dependent parent</sup> be dependent if he is destitute or if by reason of age, disease or infirmity he is unable to maintain himself, whether or not he is being cared for in a hospital, home for the aged or charitable institution. 1954, c. 68, s. 2.

**3.—(1)** An information may be laid under this Act by an <sup>Who may lay information</sup> apparently dependent parent or, with the consent in writing of the Crown attorney, by any other person.

**(2)** Notwithstanding subsection 1, the consent of the <sup>Idem</sup> Crown attorney is not required where the information is laid by a representative of a government or government agency, or by a representative of a municipality or other local authority, or by a representative of a hospital, home for the aged or charitable institution. 1954, c. 68, s. 3.

**4.—(1)** Where it appears that a parent is dependent, an <sup>Proceedings</sup> information may be laid before a justice of the peace and the justice of the peace may issue a summons (Form 1) against one or more sons or daughters of the parent, and if upon the hearing it is found that the parent is dependent and that one or more sons or daughters have sufficient means to provide in whole or in part for the support of the parent, the judge or magistrate, as the case may be, having regard to all the circumstances of the case, may make an order (Form 2) requiring any one or more of the sons and daughters to pay for the support of the parent from the date of the hearing or any date thereafter such sums at such intervals, not exceeding thirty-one days, as is deemed proper, but such sums shall not exceed the rate of \$20 per week, with or without costs.

**(2)** The judge or magistrate, in addition to the payment <sup>Order for additional payment</sup> ordered under subsection 1, may order on such terms as he deems proper any one or more of the sons and daughters to pay for the support of the dependent parent in respect of the period from the date on which the information was laid until the date of the hearing such sums at a rate not exceeding \$20 per week as he deems proper having regard to all the circumstances of the case. 1957, c. 90, s. 1.

Variation,  
etc., of  
order on  
rehearing

**5.**—(1) Upon the application of a parent in respect of whom an order under this Act has been made or of any son or daughter against whom an order was made and upon proof that the circumstances of the parent or the son or daughter has changed since the making of the order, the judge or magistrate who made the order or any other judge or magistrate having similar jurisdiction may rehear the matter and confirm, vary or rescind the order.

Notice

(2) Notice of an application for a rehearing shall be given by the applicant to every other person affected by the order under review. 1954, c. 68, s. 5.

Application  
of R.S.O.  
1960, c. 387

**6.** Except where otherwise provided in this Act, proceedings under this Act shall be in accordance with *The Summary Convictions Act*, and any order for the payment of money made under this Act may be enforced as if it were an order or conviction made under that Act, but imprisonment shall be ordered only under section 7. 1954, c. 68, s. 6.

Proceedings  
on default

**7.** Whenever default is made in the payment of any sum of money ordered under this Act to be paid, the judge or magistrate who made the order or any other judge or magistrate having similar jurisdiction,

- (a) may from time to time summon the person in default to explain the default; and
- (b) may, where service of the summons has been proved and the person summoned does not appear and sufficient reason for his absence is not given, or where it appears that the summons cannot be served, or where an order for imprisonment has been made, issue a warrant for the arrest of such person; and
- (c) may, where a warrant has been issued, or where the person in default fails to satisfy him that the default is due to inability to pay, order such person to be imprisoned for a term of not more than three months unless the sums of money payable under the order are sooner paid. 1954, c. 68, s. 7.

Order, filing  
and enforce-  
ment

**8.** An order for the payment of money under this Act may be filed with the clerk of a division court and enforced by execution and judgment summons as in the case of a judgment in the division court. 1954, c. 68, s. 8.

FORM 1  
(Section 4 (1))  
SUMMONS

under  
*The Parents' Maintenance Act*

To.....  
(Name)  
.....  
(Address)

Whereas an information has this day been **aid before me by**.....  
.....on behalf of .....  
for an order under *The Parents' Maintenance Act*.

This is therefore to command you to appear before a judge of this court  
(or magistrate) as may be then and there present on the.....day  
of....., 19....., at the hour of.....in the  
.....noon, to show cause why an order should not be made  
against you to pay to the support of your.....such sum,  
not exceeding the rate of \$20 per week, as may be ordered having regard  
to all the circumstances of the case.

Given under my hand at.....this.....day  
of....., 19.....

Justice of the Peace

1954, c. 68, Form 1; 1957, c. 90, s. 2.

FORM 2  
(Section 4 (1))

ORDER  
under

*The Parents' Maintenance Act*

Upon reading the information and summons dated the.....day  
of....., 19....., issued by....., justice  
of the peace, upon the application of.....on behalf  
of.....under *The Parents' Maintenance Act*  
and upon hearing the evidence adduced at the hearing, it appears that the  
said.....is entitled to the benefit of the said Act.

Therefore I, the undersigned, do hereby order that.....  
do hereafter pay to his (or her).....the sum of \$.....  
per week (or bi-weekly, or monthly, as the case may be) for his (or her)  
support, the first payment to be made on the ..... day of .....  
....., 19....., and the further sum of \$..... to be  
paid on or before the ..... day of ..... 19.....,  
together with the costs of these proceedings which amount to \$.....  
which shall be paid on or before the.....day of....., 19.....

Given under my hand at....., this.....day of  
....., 19.....

Judge (or Magistrate)

1957, c. 90, s. 3





## CHAPTER 285

## The Parks Assistance Act

**1.** In this Act,Interpre-  
tation

- (a) "approved park" means a park approved for assistance under this Act. 1960, c. 80, s. 1.
- (b) "Board" means the Ontario Parks Integration Board;
- (c) "Minister" means the Minister of Planning and Development;
- (d) "regulations" means the regulations made under this Act;

**2.** The parks established under this Act shall be maintained and operated for the use and enjoyment of the public in such a manner as will be complementary to the use and enjoyment of provincial parks. 1960, c. 80, s. 2.

Parks com-  
plementary  
to provincial  
parks

**3.—(1)** The Minister, upon the recommendation of the Board and with the approval of the Lieutenant Governor in Council, may make grants out of moneys appropriated therefor by the Legislature to any municipality to assist in,

Grants  
authorized

- (a) the acquisition of land for an approved park;
- (b) the development of an approved park; and
- (c) the conversion of a provincial or public park into an approved park.

**(2)** The assistance granted under subsection 1 in respect of any one park shall not exceed \$50,000 or 50 per cent of the total cost of acquiring the land and developing the park or the cost of converting a provincial or public park into an approved park, whichever is the lesser. 1960, c. 80, s. 3.

Limitation

**4.—(1)** The council of any municipality may by by-law provide for the establishment of an approved park in the municipality or in territory without municipal organization in accordance with this Act, and may acquire by purchase or otherwise real and personal property for that purpose.

Establish-  
ment of  
parks by  
municipality

Joint  
undertaking

(2) The council of any municipality may enter into agreement with the council of any other municipality,

- (a) for establishing an approved park in any municipality that is a party to an agreement or in territory without municipal organization;
- (b) for the acquisition of real and personal property for that purpose; and
- (c) for the development and operation of such park upon such terms as to contribution to the cost of the establishment, maintenance and operation thereof as may be agreed upon,

and the municipalities may acquire by purchase or otherwise real and personal property for such purposes. 1960, c. 80, s. 4.

Application  
for assistance

5. Applicants for assistance under this Act shall file with the Board plans and specifications of the proposed park in accordance with the requirements of the regulations and such other information as the Board may require. 1960, c. 80, s. 5.

Duties of  
Board

6.—(1) The Board in dealing with an application for assistance under this Act shall determine the need for the proposed park, having regard to its location in relation to other parks in Ontario and the camping, picnicking and other facilities to be provided therein for the accommodation and enjoyment of the public.

Approval  
of plans

(2) Where an application for assistance is granted under this Act, the Board shall approve the plans and specifications for the proposed approved park as submitted by the applicant or with such alterations as it deems desirable. 1960, c. 80, s. 6.

Operation  
of park

7. The approved park shall not be maintained or operated otherwise than in accordance with the approved plans and specifications without the approval of the Board. 1960, c. 80, s. 7.

Disposal  
of park

8. Where aid has been granted under this Act to assist in the establishment and development of a park, the park or any part thereof shall not be sold or disposed of without the approval of the Board. 1960, c. 80, s. 8.

Management  
of park  
R.S.O. 1960,  
cc. 329, 249

9. Unless otherwise provided in an agreement, where a municipality has a board of park management under *The Public Parks Act* or *The Municipal Act*, it may appoint such board to manage and control any approved park established in the municipality. 1960, c. 80, s. 9.



**10.**—(1) Subject to this Act and the regulations and sub-By-laws  
ject to the approval of the Board, the council of any municipality that alone or in agreement with another municipality has established an approved park may pass by-laws,

- (a) for the care, preservation, improvement, control and management of the park;
- (b) regulating and controlling the use of lands in the park;
- (c) prohibiting or regulating and controlling the use or keeping of horses, dogs and other animals in the park;
- (d) prohibiting or regulating and controlling the erection, posting or other display of notices, signs, sign-boards and other advertising devices in the park;
- (e) prohibiting or regulating and controlling the use, setting out and extinguishment of fires in the park;
- (f) prohibiting or regulating and controlling pedestrian, vehicular, boat or air traffic in the park;
- (g) prohibiting or regulating, controlling and licensing trades, businesses, amusements, sports, occupations and other activities or undertakings in the park;
- (h) prescribing fees to be payable for the use of any facilities provided in the park;
- (i) prescribing the maximum periods of stay of persons, vehicles, boats, vessels or aircraft in the park;
- (j) prescribing fees to be payable for entrance into the park of persons, vehicles, boats and aircraft;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Part XXI of *The Municipal Act* applies *mutatis mutandis* to any by-law passed under this section. 1960, c. 80, s. 10. Application of R.S.O. 1960, c. 249, Pt. XXI

**11.** The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing the terms and conditions upon which and the manner in which grants may be made under this Act;
- (b) respecting plans and specifications to be submitted with applications for assistance;

- (c) prescribing the uses to which an approved park may or may not be put, and the facilities and accommodations that may be provided therein;
- (d) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. 1960, c. 80, s. 11.

## CHAPTER 286

## The Parole Act

## 1. In this Act,

Interpre-  
tation

(a) "Board" means the Board of Parole;

(b) "prisoner" means,

(i) a person convicted of an offence against a statute of Ontario or against a municipal by-law and sentenced to an indeterminate sentence, or

(ii) a prisoner referred to in section 43 of the *Prisons and Reformatories Act* (Canada) and sentenced to an indeterminate sentence; R.S.C. 1952, c. 217(c) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 268, s. 1; 1960, c. 81, s. 1.

2. The Board of Parole shall be composed of not more than five persons appointed by the Lieutenant Governor in Council, of whom three shall be full-time members. Composition of Board 1960, c. 81, s. 2.

3.—(1) The Lieutenant Governor in Council may designate one of the members of the Board to be chairman thereof. Chairman

(2) Three members of the Board constitute a quorum. Quorum R.S.O. 1950, c. 268, s. 3.

4. The Lieutenant Governor in Council may appoint a secretary of the Board and such other officers and employees as he deems necessary. Appointment of secretary, officers and employees 1960, c. 81, s. 3.

5.—(1) The full-time members of the Board, the secretary and the officers and employees of the Board shall be paid such salary and expenses as may be determined by the Lieutenant Governor in Council. Salaries of full-time members, secretary, officers and employees

(2) The members of the Board who are not full-time members shall serve without salary but may be paid such expenses and allowances for attendance at meetings of the Board or for other attendances in connection with the business of the Board as may be determined by the Lieutenant Governor in Council. Expenses and allowances for part-time members 1960, c. 81, s. 4.



Release of  
prisoners  
on parole

**6.** Subject to the regulations, the Board may order the release on parole of any prisoner,

(a) in the case of a prisoner referred to in subclause i of clause *b* of section 1, upon such conditions as the Board deems proper; and

(b) in the case of a prisoner referred to in subclause ii of clause *b* of section 1, upon conditions approved by the Minister of Justice under section 43 of the *Prisons and Reformatories Act* (Canada). R.S.O. 1950, c. 268, s. 6.

R.S.C. 1952,  
c. 217

Re-taking  
prisoners  
on breach  
of conditions  
of parole

**7.** In the case of prisoners referred to in subclause i of clause *b* of section 1, the Board may provide that a prisoner who fails to observe the conditions of his parole may be taken into custody by any person appointed for such purpose, and may be returned to the prison or other place from which he was paroled. R.S.O. 1950, c. 268, s. 7; 1960, c. 81, s. 5.

Assistance  
to prisoners

**8.** It is the duty of the Board to assist prisoners on parole in securing employment with trustworthy persons and in this manner to ensure as far as possible the success of the parole system. R.S.O. 1950, c. 268, s. 8.

Returns

**9.** It is the duty of every public officer or other person having information or having access to any information bearing upon the fitness of a prisoner to be paroled to make such return in writing to the Board as is required by the regulations. R.S.O. 1950, c. 268, s. 9.

Annual  
report

**10.** The Board shall in each year, on or before the 30th day of June, make a report in writing to the Lieutenant Governor in Council of the history and proceedings of the Board during the twelve-month period ending on the 31st day of March of such year. R.S.O. 1950, c. 268, s. 10.

Pardoning  
powers not  
affected

**11.** Nothing in this Act shall be construed as affecting or impairing or as intending or purporting to affect or impair the powers of the Governor General of Canada or the Lieutenant Governor of Ontario to grant a reprieve, pardon, or commutation of sentence in any case. R.S.O. 1950, c. 268, s. 11.

Regulations

**12.—(1)** The Lieutenant Governor in Council may make regulations,

(a) defining the duties and powers of the Board;

(b) defining the conditions under which a prisoner may be paroled;

- (c) prescribing the powers of the Board in dealing with a prisoner on parole who fails to comply with the terms upon which he has been paroled;
- (d) prescribing the form of returns to be made by public officers and other persons containing information as to the antecedents of any prisoner;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 268, s. 12 (1); 1952, c. 72, s. 6; 1960, c. 81, s. 6.

(2) Such of the regulations as are approved by the Minister of Justice (Canada) have force and effect as to prisoners referred to in section 43 of the *Prisons and Reformatories Act* (Canada). R.S.O. 1950, c. 268, s. 12 (2).

Approval  
by Minister  
of Justice  
R.S.C. 1952,  
c. 217





## CHAPTER 287

## The Partition Act

**1.** In this Act,Interpre-  
tation

- (a) "court" means the Supreme Court or the county or district court of the county or district in which the land or any part thereof is situate;
- (b) "land" includes lands, tenements, and hereditaments, and all estate and interests therein. R.S.O. 1950, c. 269, s. 1; 1952, c. 73, s. 1.

**2.** All joint tenants, tenants in common, and coparceners, all dowresses, and parties entitled to dower, tenants by the curtesy, mortgagees or other creditors having liens on, and all parties interested in, to or out of, any land in Ontario, may be compelled to make or suffer partition or sale of the land, or any part thereof, whether the estate is legal and equitable or equitable only. R.S.O. 1950, c. 269, s. 2.

Who may be  
compelled to  
make parti-  
tion or sale

**3.**—(1) Any person interested in land in Ontario, or the guardian appointed by a surrogate court of an infant entitled to the immediate possession of an estate therein, may take proceedings for the partition of such land or for the sale thereof under the directions of the court if such sale is considered by the court to be more advantageous to the parties interested.

Who may  
take pro-  
ceedings for  
partition

(2) Where the land is held in joint tenancy or tenancy in common or coparcenary by reason of a devise or an intestacy, no proceedings shall be taken until one year after the decease of the testator or person dying intestate in whom the land was vested. R.S.O. 1950, c. 269, s. 3.

When pro-  
ceedings  
may be  
commenced

**4.**—(1) Where a person interested in the land has not been heard of for three years or upwards and it is uncertain whether such person is living or dead, the court upon the application of any one interested in the land may appoint a guardian to take charge of the interest of such person and of those who, in the event of his being dead, are entitled to his share or interest in the land.

Appointment  
of guardian  
to estate of  
person un-  
heard of for  
three years

(2) The guardian shall, in the proceedings, represent the absent person and those who, if he is dead, are entitled to his share or interest in the land, and whether they or any of them are infants or otherwise under disability, and his acts in

Powers  
of such  
guardian

relation to such share or interest are binding on the absent person and all others claiming or entitled to claim under or through him, and are as valid as if done by him or them.

Power of  
the court to  
deal with  
the estate

(3) The court upon proof of such absence of such person as affords reasonable ground for believing such person to be dead, upon the application of the guardian, or any one interested in the estate represented by the guardian, may deal with the estate or interest of such person, or the proceeds thereof, and may order payment of the proceeds, or the income or produce thereof, to the person who, in the event of the absent person being dead, appears to be entitled to the same. R.S.O. 1950, c. 269, s. 4.

Sales,  
including,  
estates in  
dower or by  
the curtesy  
or for life

5.—(1) In an action or proceeding for partition or administration, or in an action or proceeding in which a sale of land in lieu of partition is ordered, and in which the estate of a tenant in dower or tenant by the curtesy or for life is established, if the person entitled to the estate is a party, the court shall determine whether the estate ought to be exempted from the sale or whether it should be sold, and in making such determination regard shall be had to the interests of all the parties.

What to pass  
to purchaser

(2) If a sale is ordered including such estate, all the estate and interest of every such tenant passes thereby, and no conveyance or release to the purchaser shall be required from such tenant, and the purchaser, his heirs and assigns, hold the premises freed and discharged from all claims by virtue of the estate or interest of any such tenant, whether the same be to any undivided share or to the whole or any part of the premises sold.

Compensation  
to  
owners of  
particular  
estates

(3) The court may direct the payment of such sum in gross out of the purchase money to the person entitled to dower or estate by the curtesy or for life, as is deemed, upon the principles applicable to life annuities, a reasonable satisfaction for such estate, or may direct the payment to the person entitled of an annual sum or of the income or interest to be derived from the purchase money or any part thereof, as seems just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as is necessary. R.S.O. 1950, c. 269, s. 5.

Determining  
value of  
claim to  
inchoate  
right of  
dower

6. Where a married woman is a party to such action or proceeding in respect to an inchoate right of dower, the court shall, in case of sale, determine the value of such right according to the principles applicable to deferred annuities and survivorships, and shall order the amount of such value to be paid, or shall order the payment to such married woman of

an annual sum, or of such income or interest as is provided in section 5 and the payment is a bar to any right or claim of dower. R.S.O. 1950, c. 269, s. 6.

**7.** A partition or sale made by the court is as effectual <sup>Effect upon persons under a disability</sup> for the apportioning or conveying away of the estate or interest of a married woman, infant or mentally incompetent person, party to the proceedings by which the sale or partition is made or declared, as of a person competent to act for himself. R.S.O. 1950, c. 269, s. 7.

**8.—**(1) Where proceedings under this Act are brought in a county or district court, a respondent may, by notice served <sup>Removal of proceedings into Supreme Court</sup> on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

(2) Upon the filing of the notice and proof of service thereof, <sup>Transmission of proceedings</sup> the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the proceedings are brought.

(3) When the papers and proceedings are received at the <sup>Removal of proceedings</sup> proper office of the Supreme Court, the proceedings are *ipso facto* in the Supreme Court. 1952, c. 73, s. 2, *part*.

**9.** An appeal lies to the Court of Appeal from any order <sup>Appeal</sup> made under this Act. 1952, c. 73, s. 2, *part*.

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## CHAPTER 288

## The Partnerships Act

## 1.—(1) In this Act,

Interpre-  
tation

(a) “business” includes every trade, occupation and profession;

(b) “court” includes every court and judge having jurisdiction in the case.

(2) A person is deemed to be “insolvent” within the meaning of this Act if he is adjudged a bankrupt under the *Bankruptcy Act* (Canada) or if he makes an assignment for the general benefit of his creditors, and “insolvency” has a meaning corresponding with “insolvent”. R.S.O. 1950, c. 270, s. 1. Idem  
R.S.C. 1952,  
c. 14

## NATURE OF PARTNERSHIP

2. Partnership is the relation that subsists between persons carrying on a business in common with a view of profit, but the relation between the members of a company or association that is incorporated by or under the authority of any special or general Act in force in Ontario or elsewhere, or registered as a corporation under any such Act, is not a partnership within the meaning of this Act. R.S.O. 1950, c. 270, s. 2. Partnership

3. In determining whether a partnership does or does not exist, regard shall be had to the following rules: Rules for  
determining  
existence of  
partnership

1. Joint tenancy, tenancy in common, joint property, common property, or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof.

2. The sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived.

3. The receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such a share or payment, contingent on or varying with the profits of a business, does not of itself make him a partner in the business, and in particular,

(a) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the

accruing profits of a business does not of itself make him a partner in the business or liable as such;

- (b) a contract for the remuneration of a servant or agent or a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;
- (c) a person being the widow or child of a deceased partner and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner is not by reason only of such receipt a partner in the business or liable as such;
- (d) the advance of money by way of loan to a person engaged or about to engage in a business on a contract with that person that the lender is to receive a rate of interest varying with the profits, or is to receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, provided that the contract is in writing and signed by or on behalf of all parties thereto;
- (e) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business, is not by reason only of such receipt a partner in the business or liable as such. R.S.O. 1950, c. 270, s. 3.

**Insolvency**

**4.** In the event of a person to whom money has been advanced by way of loan upon such a contract as is mentioned in section 3, or of a buyer of the goodwill in consideration of a share of the profits of the business becoming insolvent or entering into an arrangement to pay his creditors less than 100 cents in the dollar or dying in insolvent circumstances, the lender of the loan is not entitled to recover anything in respect of his loan, and the seller of the goodwill is not entitled to recover anything in respect of the share of profits contracted for until the claims of the other creditors of the borrower or buyer, for valuable consideration in money or money's worth, are satisfied. R.S.O. 1950, c. 270, s. 4.

**Meaning of  
"firm"**

**5.** Persons who have entered into partnership with one another are, for the purposes of this Act, called collectively a firm, and the name under which their business is carried on is called the firm name. R.S.O. 1950, c. 270, s. 5.



## RELATION OF PARTNERS TO PERSONS DEALING WITH THEM

**6.** Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership, and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners unless the partner so acting has in fact no authority to act for the firm in the particular matter and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner. R.S.O. 1950, c. 270, s. 6.

Power of partner to bind firm

**7.** An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm by a person thereto authorized, whether a partner or not, is binding on the firm and all the partners, but this section does not affect any general rule of law relating to the execution of deeds or negotiable instruments. R.S.O. 1950, c. 270, s. 7.

Partners bound by acts on behalf of firm

**8.** Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partners, but this section does not affect any personal liability incurred by an individual partner. R.S.O. 1950, c. 270, s. 8.

Partner using credit of firm for private purposes

**9.** If it is agreed between the partners to restrict the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement. R.S.O. 1950, c. 270, s. 9.

Effect of notice that firm not bound by act of partner

**10.** Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner, and after his death his estate is also severally liable in a due course of administration for such debts and obligations so far as they remain unsatisfied, but subject to the prior payment of his separate debts. R.S.O. 1950, c. 270, s. 10.

Liability of partners

**11.** Where by any wrongful act or omission of a partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to a person not being a partner of the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act. R.S.O. 1950, c. 270, s. 11.

Liability of firm for wrongs

Misapplica-  
tion of  
money or  
property  
received for  
or in custody  
of the firm

**12.** In the following cases, namely,

- (a) where one partner, acting within the scope of his apparent authority, receives the money or property of a third person and misapplies it; and
- (b) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss. R.S.O. 1950, c. 270, s. 12.

Liability  
for wrongs  
joint and  
several

**13.** Every partner is liable jointly with his co-partners and also severally for everything for which the firm, while he is a partner therein, becomes liable under section 11 or 12. R.S.O. 1950, c. 270, s. 13.

Improper  
employment  
of trust  
property for  
partnership  
purposes

**14.** If a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein, but

- (a) this section does not affect any liability incurred by any partner by reason of his having notice of a breach of trust; and
- (b) nothing in this section prevents trust money from being followed and recovered from the firm if still in its possession or under its control. R.S.O. 1950, c. 270, s. 14.

Persons  
liable by  
"holding  
out"

**15.—(1)** Every person, who by words spoken or written or by conduct represents himself or who knowingly suffers himself to be represented as a partner in a particular firm, is liable as a partner to any person who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the persons so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

Continuing  
business  
after death  
of partner

(2) Where after a partner's death the partnership business is continued in the old firm name, the continued use of that name or of the deceased partner's name as part thereof does not of itself make his executor's or administrator's estate or effects liable for any partnership debts contracted after his death. R.S.O. 1950, c. 270, s. 15.

**16.** An admission or representation made by a partner concerning the partnership affairs and in the ordinary course of its business is evidence against the firm. R.S.O. 1950, c. 270, s. 16. Admissions and representations of partners

**17.** Notice to a partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner. R.S.O. 1950, c. 270, s. 17. Notice to acting partner to be notice to the firm

**18.**—(1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner. Liability commences with admission to firm

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement. Liability for debts, etc., incurred before retirement

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either express or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted. R.S.O. 1950, c. 270, s. 18. Agreement discharging retiring partner

**19.** A continuing guaranty or cautionary obligation given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transaction of which the guaranty or obligation was given. R.S.O. 1950, c. 270, s. 19. Revocation of continuing guaranty by change in firm

#### RELATION OF PARTNERS TO ONE ANOTHER

**20.** The mutual rights and duties of partners, whether ascertained by agreement or defined by this Act, may be varied by the consent of all the partners, and such consent may be either expressed or inferred from a course of dealing. R.S.O. 1950, c. 270, s. 20. Variation by consent of terms of partnership

**21.**—(1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business, are called in this Act "partnership property", and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement. Partnership property



Devolution  
of land

(2) The legal estate or interest in land that belongs to a partnership devolves according to the nature and tenure thereof and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

Co-owners  
of land

(3) Where co-owners of an estate or interest in land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits to be used in like manner, the land or estate so purchased belongs to them, in the absence of an agreement to the contrary, not as partners, but as co-owners for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of purchase. R.S.O. 1950, c. 270, s. 21.

Property  
bought with  
partnership  
money

**22.** Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on the account of the firm. R.S.O. 1950, c. 270, s. 22.

Conversion  
of land  
bought with  
partnership  
money into  
personalty

**23.** Where land or any heritable interest therein becomes partnership property, unless the contrary intention appears, it is to be treated as between the partners, including the representatives of a deceased partner, and also as between the heirs of a deceased partner and his executors or administrators as personal or movable and not real or heritable estate. R.S.O. 1950, c. 270, s. 23.

Rules as to  
interests  
and duties  
of partners

**24.** The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners, by the following rules:

1. All the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm.

2. The firm must indemnify every partner in respect of payments made and personal liabilities incurred by him,

(a) in the ordinary and proper conduct of the business of the firm; or

(b) in or about anything necessarily done for the preservation of the business or property of the firm.

3. A partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital that he has agreed to subscribe is entitled to interest at the rate of 5 per cent per annum from the date of the payment or advance.

4. A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him.

5. Every partner may take part in the management of the partnership business.

6. No partner is entitled to remuneration for acting in the partnership business.

7. No person may be introduced as a partner without the consent of all existing partners.

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners.

9. The partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may, when he thinks fit, have access to and inspect and copy any of them. R.S.O. 1950, c. 270, s. 24.

**25.** No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners. R.S.O. 1950, c. 270, s. 25. Expulsion of partner

**26.—**(1) Where no fixed term is agreed upon for the duration of the partnership, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners. Retirement from partnership at will

(2) Where the partnership was originally constituted by deed, a notice in writing, signed by the partner giving it, is sufficient for that purpose. R.S.O. 1950, c. 270, s. 26. Notice of retirement

**27.—**(1) Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term, so far as is consistent with the incidents of a partnership at will. Presumption of continuance after expiry of term

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term without any settlement or liquidation of the partnership affairs is presumed to be a continuance of the partnership. R.S.O. 1950, c. 270, s. 27. Arises from continuance of business

**28.** Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives. R.S.O. 1950, c. 270, s. 28. Duty as to rendering accounts

Accountability for private profits

**29.**—(1) Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership or from any use by him of the partnership property, name or business connection.

Extends to survivors and representatives of deceased

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner and before its affairs have been completely wound up, either by a surviving partner or by the representatives of the deceased partner. R.S.O. 1950, c. 270, s. 29.

Duty of partner not to compete with firm

**30.** If a partner, without the consent of the other partners, carries on a business of the same nature as and competing with that of the firm, he must account for and pay over to the firm all profits made by him in that business. R.S.O. 1950, c. 270, s. 30.

Rights of assignee of share in partnership

**31.**—(1) An assignment by a partner of his share in the partnership, either absolute or by way of mortgage or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee must accept the account of profits agreed to by the partners.

On dissolution

(2) In the case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution. R.S.O. 1950, c. 270, s. 31.

#### DISSOLUTION OF PARTNERSHIP

Dissolution by expiry of term or notice

**32.** Subject to any agreement between the partners, a partnership is dissolved,

- (a) if entered into for a fixed term, by the expiration of that term;
- (b) if entered into for a single adventure or undertaking, by the termination of that adventure or undertaking; or



- (c) if entered into for an undefined time, by a partner giving notice to the other or others of his intention to dissolve the partnership, in which case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice. R.S.O. 1950, c. 270, s. 32.

**33.**—(1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or insolvency of a partner. Dissolution by death or insolvency of partner

(2) A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Act for his separate debt. Where partner's share charged for separate debt  
R.S.O. 1950, c. 270, s. 33.

**34.** A partnership is in every case dissolved by the happening of any event that makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership. By illegality of business  
R.S.O. 1950, c. 270, s. 34.

**35.** On application by a partner, the court may order a dissolution of the partnership, By the court

- (a) when a partner is found mentally incompetent by inquisition or is shown to the satisfaction of the court to be of permanently unsound mind, in either of which cases the application may be made as well on behalf of that partner by his committee or next friend or person having title to intervene as by any other partner;
- (b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;
- (c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the court, regard being had to the nature of the business, is calculated to prejudicially affect the carrying on of the business;
- (d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;
- (e) when the business of the partnership can only be carried on at a loss; or

- (f) when in any case circumstances have arisen that in the opinion of the court render it just and equitable that the partnership be dissolved. R.S.O. 1950, c. 270, s. 35.

Rights of  
persons  
dealing with  
firm against  
apparent  
members

**36.**—(1) Where a person deals with a firm after a change in its constitution, he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

Notice

(2) An advertisement in *The Ontario Gazette* shall be notice as to persons who had not dealings with the firm before the dissolution or change so advertised.

Estate of  
dead or  
insolvent  
partner, how  
far liable

(3) The estate of a partner who dies, or who becomes insolvent, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, insolvency, or retirement. R.S.O. 1950, c. 270, s. 36.

Right to  
give notice  
of disso-  
lution

**37.** On the dissolution of a partnership or retirement of a partner, any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, that cannot be done without his or their concurrence. R.S.O. 1950, c. 270, s. 37.

Continuing  
authority of  
partners for  
purposes of  
winding up

**38.** After the dissolution of a partnership, the authority of each partner to bind the firm and the other rights and obligations of the partners continue notwithstanding the dissolution so far as is necessary to wind up the affairs of the partnership and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise; provided that the firm is in no case bound by the acts of a partner who has become insolvent; but this proviso does not affect the liability of a person who has, after the insolvency, represented himself or knowingly suffered himself to be represented as a partner of the insolvent. R.S.O. 1950, c. 270, s. 38.

Rights of  
partners as  
to applica-  
tion of  
partnership  
property

**39.** On the dissolution of a partnership every partner is entitled, as against the other partners in the firm and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm, and for that purpose any partner or his representative may, on

the termination of the partnership, apply to the court to wind up the business and affairs of the firm. R.S.O. 1950, c. 270, s. 39.

**40.** Where one partner paid a premium to another on entering into a partnership for a fixed term and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless,

Apportionment of premium on premature dissolution

- (a) the dissolution is, in the judgment of the court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of a part of the premium. R.S.O. 1950, c. 270, s. 40.

**41.** Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

Rights where partnership dissolved for fraud or misrepresentations

- (a) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him; and
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and
- (c) to be indemnified by the person guilty of the fraud or making the representation against all the debts and liabilities of the firm. R.S.O. 1950, c. 270, s. 41.

**42.—(1)** Where any member of a firm dies or otherwise ceases to be a partner and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of an agreement to the contrary, the outgoing partner or his estate is entitled, at the option of himself or his representatives, to such share of the profits made since the dissolution as the court finds to be attributable to the use of his share of the partnership assets, or to interest at the rate of 5 per cent per annum on the amount of his share of the partnership assets.

Right of out-going partner as to share in profits after dissolution



Proviso as to option of remaining partners to purchase share

(2) Where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits, but if any partner, assuming to act in exercise of the option, does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section. R.S.O. 1950, c. 270, s. 42.

Retiring or deceased partner's share to be a debt

**43.** Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share, is a debt accruing at the date of the dissolution or death. R.S.O. 1950, c. 270, s. 43.

Rules for distribution of assets on final settlement of accounts

**44.** In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

1. Losses, including losses and deficiencies of capital, are to be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits.

2. The assets of the firm, including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, are to be applied in the following manner and order:

- (a) in paying the debts and liabilities of the firm to persons who are not partners therein;
- (b) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;
- (c) in paying to each partner rateably what is due from the firm to him in respect of capital;
- (d) the ultimate residue, if any, is to be divided among the partners in the proportion in which profits are divisible. R.S.O. 1950, c. 270, s. 44.

Saving as to rules of equity and common law

**45.** The rules of equity and of common law applicable to partnership continue in force, except so far as they are inconsistent with the express provisions of this Act. R.S.O. 1950, c. 270, s. 45.

Act to be subject to R.S.O. 1960, cc. 215, 289

**46.** This Act is to be read and construed as subject to *The Limited Partnerships Act* and *The Partnerships Registration Act*. R.S.O. 1950, c. 270, s. 46.

## CHAPTER 289

**The Partnerships Registration Act**

**1.**—(1) Persons associated in partnership for trading, manufacturing or mining purposes shall cause to be filed with the registrar of the registry division in which they carry on or intend to carry on business a declaration in writing (Form 1) signed by all the members of the partnership. Persons in partnership to deliver a declaration to the registrar

(2) When at the time of making the declaration any member is absent from the place where the partnership carries on or intends to carry on business, the declaration shall be signed by the members present in their own names and also for any absent member, under his special authority to that effect, and such special authority shall be annexed to the declaration and shall be filed with the registrar at the same time as the declaration. Absent parties R.S.O. 1950, c. 271, s. 1.

**2.** The declaration shall state,

- (a) the names, surnames, additions and residences of every partner;
- (b) the name under which they carry on or intend to carry on business;
- (c) the time during which the partnership has subsisted;
- (d) that the persons therein named are the only members of the partnership; and
- (e) which of the partners are of the full age of twenty-one years and, where any of the partners are under the full age of twenty-one years, the date of birth of each of such partners. Requisites of declaration R.S.O. 1950, c. 271, s. 2.

**3.** Every declaration shall be filed within sixty days next after the formation of the partnership or, in the case of a declaration under section 8, within sixty days of the time when the name or designation is first used, but a judge of a county or district court may extend the period for filing upon being satisfied by affidavit or affidavits, which shall be filed with the declaration, that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the partners or other declarant have acted and are acting in good faith. When declaration to be filed R.S.O. 1950, c. 271, s. 3.

Declaration  
where  
change in  
partnership

**4.**—(1) A similar declaration shall in like manner be filed whenever any change takes place in the membership of the partnership or in the name under which it carries on business, and every such declaration shall state the change in the membership of the partnership or in its name.

When to be  
filed

(2) The declaration shall be filed within sixty days after the change takes place. R.S.O. 1950, c. 271, s. 4.

Effect of  
allegations  
in the  
declaration

**5.** The statements made in any declaration are not controvertible by any person who has signed it nor as against any person not being a member of the partnership by any person who has signed it, or who was really a member of the partnership therein mentioned at the time the declaration was made. R.S.O. 1950, c. 271, s. 5.

Declaration  
of dis-  
solution of  
partnership

**6.** Upon the dissolution of a partnership any or all of the persons who composed the partnership may sign a declaration (Form 2) certifying the dissolution of the partnership. R.S.O. 1950, c. 271, s. 6.

Position of  
persons  
signing  
declaration

**7.**—(1) Until a new declaration is made and filed by him, or by his partners or any of them, no person who signed the declaration filed shall be deemed to have ceased to be a partner.

Liability of  
partners  
failing to  
make  
declaration

(2) Nothing herein exempts from liability any person who, being a partner, fails to make and file the prescribed declaration, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and, if judgment is recovered against them, he may be sued on the original cause of action upon which the judgment was recovered. R.S.O. 1950, c. 271, s. 7.

Where  
business  
name  
indicates  
plurality

**8.**—(1) Every person engaged in business for trading, manufacturing or mining purposes who is not associated in partnership with any other person but uses as his business style,

- (a) a name or designation other than his own name; or
- (b) his own name with the addition of the expression "and company" or some other expression indicating a plurality of members in the firm,

shall sign a declaration and file it with the registrar of the registry division in which he carries on or intends to carry on business.

Requisites  
of declara-  
tion

(2) The declaration shall state,

- (a) the name, surname, addition and residence of the person making the declaration;



- (b) the name or designation under which he carries on or intends to carry on business, and the date when the name or designation was first used by him;
- (c) that no other person is associated with him in partnership; and
- (d) that he is of the full age of twenty-one years or the date of his birth if he is under the age of twenty-one years. R.S.O. 1950, c. 271, s. 8.

**9.**—(1) No partnership in respect of which a declaration has not been filed as required by this Act and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in connection with the business carried on by the partnership. Failure to file declaration

(2) No person who has failed to file a declaration as required by section 8 is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in connection with the business in respect of which a declaration is required to be filed. R.S.O. 1950, c. 271, s. 9. Idem

**10.** Every person who fails to comply with any of the provisions of this Act or who knowingly makes any false statement in any declaration signed or filed by him under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1950, c. 271, s. 10. Offence

**11.**—(1) The registrar shall enter the declarations in the order in which they are received in a book to be kept by him for that purpose, and such book shall be open to the public for inspection without charge during office hours. Registrar to record declaration

(2) The registrar, for filing and entering a declaration, is entitled to receive from the person filing the declaration the following fees: Registrar's fee for filing

If the declaration contains 200 words or less—\$1.

If the declaration contains more than 200 words—\$1, and for each 100 words after the first 200—10 cents.

(3) The registrar shall keep two alphabetical index books of all declarations filed with him. Indexes

(4) In one of such books, herein called the "Firm Index", the registrar shall enter in alphabetical order the names of the firms in respect of which declarations have been filed with him, and shall place opposite each entry the names of the persons composing the firm, and the date of the receipt by him of the declaration, in the manner shown in Form 3. "Firm Index"

"Individual  
Index"

(5) In the second of such books, herein called the "Individual Index", the registrar shall enter in alphabetical order the names of the members of each firm, and shall place opposite the entry the name of the firm of which each person is a member, and the date of the receipt of the declaration in the manner shown in Form 4.

Registrar's  
fees for  
certain  
services

(6) The registrar is entitled to the following fees for searches:

For searching in Firm Index—each firm, 25 cents.

For searching in Individual Index—each name, 10 cents.

For each certificate when required—25 cents.

For each certificate on a duplicate when required—50 cents.

R.S.O. 1950, c. 271, s. 11.

Who to  
furnish  
registry  
books

**12.** The books required for the purposes of this Act shall be furnished by the treasurer of the municipality whose duty it is to furnish registry books, or in case of his default, by the registrar in the same manner as other registry books. R.S.O. 1950, c. 271, s. 12.

Butter or  
cheese manu-  
facturing  
associations  
excepted

**13.** This Act does not apply to associations of individuals formed for the manufacture of butter or cheese, where such individuals contribute produce from their dairies for that purpose. R.S.O. 1950, c. 271, s. 13.

Rights of  
partners  
*inter se*

**14.** Nothing in this Act affects the rights of partners with regard to each other. R.S.O. 1950, c. 271, s. 14.

FORM 1  
(Section 1(1))

DECLARATION OF PARTNERSHIP

County (or District) of.....  
We,....., of.....in.....,.....(occupation)  
and.....of.....in.....,.....  
.....(occupation), hereby certify.....

1. That we have carried on and intend to carry on (or we intend to carry on) trade and business as.....at.....in partnership, under the name of.....

2. That the said partnership has subsisted since the..... day of....., 19.....

3. That we are and have been since the said day the only members of the said partnership.

4. That the said.....are of the full age of twenty-one years.  
(Where any of the partners are under the age of twenty-one years, add)

5. That the said.....was born on the.....day of....., 19.....

Witness our hands at..... this.....day of....., 19.....

R.S.O. 1950, c. 271, Form 1.

FORM 2  
(Section 6)

DECLARATION OF DISSOLUTION OF PARTNERSHIP

County (or District) of.....

I, ....., formerly a member of the firm carrying on business as ..... at....., in the.....of....., under the name of.....do hereby certify that the said partnership was on the.....day of....., 19....., dissolved.

Witness my hand, at....., this.....day of....., 19.....

R.S.O. 1950, c. 271, Form 2.



FORM 3  
(Section 11(4))  
FIRM INDEX

NAME OF FIRM	NAMES OF PERSONS COMPOSING THE FIRM	DATE OF FILING DECLARATION
Abbott, Black & Co.....	George Abbott, John Black, Edward Cook.....	10th February, 19....
Bernard, Green & Jones.....	John Bernard, Edward Green, John Jones.....	12th February, 19....
Cook (Thos.) & Co.....	Thomas Cook, James Wilson.....	14th February, 19....
Dadson, William.....	William Dadson, Thos. Jones, Robert Watson, William Wilberforce, Jas. Johnson.....	14th February, 19....
Dick & Co.....	Richard Dick.....	15th May, 19....
Dow (Wm.) & Sons.....	William Dow.....	19th May, 19....

R.S.O. 1950, c. 271, Form 3.

FORM 4  
(Section 11(5))  
INDIVIDUAL INDEX

NAME OF INDIVIDUAL	NAME OF FIRM OF WHICH A MEMBER	DATE OF FILING DECLARATION
Abbott, George.....	Abbott, Black & Co.....	10th February, 19....
Black, John.....	Abbott, Black & Co.....	10th February, 19....
Bernard, John.....	Bernard, Green & Jones.....	12th February, 19....
Cook, Edward.....	Abbott, Black & Co.....	10th February, 19....
Cook, Thomas.....	Thomas Cook & Co.....	14th February, 19....
Dadson, William.....	William Dadson.....	14th February, 19....
Dick, Richard.....	Dick & Co.....	15th May, 19....
Dow, William.....	Wm. Dow & Sons.....	19th May, 19....

R.S.O. 1950, c. 271, Form 4.

## CHAPTER 290

### The Pawnbrokers Act

**1.—(1)** In this Act,

Interpre-  
tation

- (a) “municipality” does not include a county;
- (b) “pawnbroker” means a person who exercises the trade of receiving or taking by way of pawn or pledge any goods for the repayment of money lent thereon;
- (c) “pawner” means a person delivering an article for pawn to a pawnbroker;
- (d) “pawnticket” means the note or memorandum referred to in section 8;
- (e) “pledge” means an article pawned with a pawnbroker;
- (f) “shop” includes dwelling-house and warehouse or other place of business or place where business is transacted.

(2) In order to prevent evasion of this Act, every person shall be deemed to be a pawnbroker who,

Who to be  
deemed  
pawn-  
brokers

- (a) keeps a shop for the purchase or sale of goods or chattels, or for taking in goods or chattels by way of security for money advanced thereon; or
- (b) purchases or receives or takes in goods or chattels and pays or advances or lends thereon any sum of money not exceeding \$50,

with or under an agreement or understanding expressed or implied or to be from the nature and character of the dealing reasonably inferred that those goods or chattels may be afterwards redeemed or repurchased on any terms, and every such transaction, payment, advance and loan shall be deemed a pawning, pledging and loan respectively under this Act. R.S.O. 1950, c. 272, s. 1.

**2.—(1)** No person shall exercise the trade of a pawnbroker unless he obtains a licence therefor under the hand of the treasurer of the municipality in which he carries on or proposes to carry on such trade, nor unless he obtains a renewal of his licence annually, but no licence shall be issued or renewed unless under the authority of a by-law of the council of the municipality.

Licences

Refusal to  
grant or  
renew

(2) A licence or renewal may be refused without any cause assigned.

Fee for  
licence

(3) The sum of \$60 shall be paid for every licence or renewal thereof to the treasurer for the use of the municipality, and every pawnbroker shall give to the municipality security to the satisfaction of the treasurer in the sum of \$1,000 for the due observance by him of this Act.

Offence

(4) Every person who exercises such trade without having obtained a licence or renewal thereof is guilty of an offence and on summary conviction is liable to a fine of \$50 for every pledge he takes. R.S.O. 1950, c. 272, s. 2.

Licence to  
cover only  
one shop

3. No person shall, by virtue of one licence, keep more than one shop. R.S.O. 1950, c. 272, s. 3.

Licence to  
partners

4. Only one licence is necessary where two or more persons carry on trade as pawnbrokers in partnership in the same shop. R.S.O. 1950, c. 272, s. 4.

Agents, ser-  
vants and  
apprentices  
of pawn-  
brokers

5. For the purposes of this Act, anything done or omitted by a servant, apprentice or agent of a pawnbroker in the course of or in relation to the business of a pawnbroker shall be deemed to be done or omitted, as the case may be, by the pawnbroker, and anything by this Act authorized to be done by a pawnbroker may be done by his servant, apprentice or agent. R.S.O. 1950, c. 272, s. 5.

Duties of  
pawnbroker:  
sign to be  
exhibited

6.—(1) Every pawnbroker shall always,

(a) keep exhibited in large, legible characters on a sign over the outer door of his shop his name and the word "Pawnbroker"; and

notice of  
rates

(b) keep displayed in a conspicuous part of his shop a notice painted or printed in English in large, legible characters so as to be visible to any person pawning or redeeming pledges, showing the rate of profit authorized by law to be taken, and also the various prices of the pawntickets to be given according to the rates hereinafter mentioned, and of the expense of obtaining a copy of the pawnticket where the pawn ticket has been lost, mislaid, destroyed or fraudulently obtained from the pawner.

Offence

(2) If a pawnbroker fails in any respect to comply with the requirements of this section he is guilty of an offence and on summary conviction is liable to a fine of not more than \$40. R.S.O. 1950, c. 272, s. 6.



7.—(1) Every pawnbroker who takes a pledge in pawn whereon a sum of \$1 or more is lent shall, before he lends the money thereon, enter in English in a fair and legible manner in a book to be kept by him for that purpose, a description of the pledge, the sum lent thereon, with the day of the month and year, and the name and a description of the pawner, and the name of the street and number of the house where he resides, and whether he is a lodger in or the keeper of such house, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of residence of the owner according to the information of the pawner, into all which circumstances the pawnbroker shall inquire of him before any money is lent.

Entries to  
be made by  
pawn-  
brokers

(2) Where the sum lent does not exceed \$1, a similar entry shall be made in such book within four hours after the goods have been pawned.

If sum does  
not exceed  
\$1

(3) Where more than \$2 is lent upon a pledge, the entries shall be made in respect thereof in a separate book to be kept for that purpose.

Separate  
book for  
pledges  
over \$2

(4) The entries shall be numbered in the books consecutively in the order in which the pledges are pawned in the following manner: the first pledge received in pawn as No. 1, the second as No. 2, and so on until the end of the month, and in like manner in every succeeding month, and upon every pawnticket respecting such pledge shall be written the number of entry of the pledge so entered in the book. R.S.O. 1950, c. 272, s. 7.

Entries, how  
to be made

8. At the time of taking any pledge a note or memorandum, written or printed, shall be given to the pawner containing a description of the pledge and a statement of the sum lent thereon, with the day of the month and year, and the name of the pawner and the name of the street, number of the house where he resides, and whether he is a lodger in or the keeper of such house, by using the letters "L" or "H", and upon such note or memorandum, or on the back thereof, shall be written or printed the name and place of residence of the pawnbroker and the rates of interest that may lawfully be charged, which note or memorandum the pawner is required to take, and, unless he takes it, the pawnbroker shall not take the pledge in pawn. R.S.O. 1950, c. 272, s. 8.

Pawnticket

9.—(1) Where the sum lent is less than \$20, the pawnbroker may take 5 cents for the pawnticket.

Charges for  
ticket if less  
than \$20

(2) Where the sum lent is \$20 or more, the pawnbroker may take 10 cents for the pawnticket. R.S.O. 1950, c. 272, s. 9.

If more

Production  
of ticket

**10.** Except as hereinafter provided, the pawnbroker is not bound to re-deliver the goods until the pawnticket is produced and delivered to him. R.S.O. 1950, c. 272, s. 10.

Duplicate  
ticket

**11.** A duplicate of the pawnticket shall be affixed to the pledge, and, where the pledge is redeemed, the pawnbroker shall write or endorse on the duplicate the profit taken by him for the pledge, and shall keep the duplicate in his custody for one year after redemption. R.S.O. 1950, c. 272, s. 11.

Offence

**12.—(1)** Every person who knowingly and designedly pawns anything being the property of another person, unless employed or authorized by the owner so to do, is guilty of an offence and on summary conviction is liable to a fine of not less than \$4 and not more than \$20, and a further penalty of a sum equal to the full value of the pledge as ascertained by the convicting magistrate.

Penalties,  
how applied

(2) The fine and further penalty shall be applied towards making satisfaction to the person injured, and defraying the costs of the prosecution, as is adjudged reasonable by the convicting magistrate. R.S.O. 1950, c. 272, s. 12.

Offence

**13.** A pawnbroker who knowingly takes in pawn any linen or wearing apparel, or unfinished goods, or materials entrusted to a person to wash, scour, iron, mend, manufacture, work up, finish or make up, is guilty of an offence and on summary conviction is liable to a fine of not more than double the amount of the loan, and shall forthwith restore the pledge to the lawful owner in the presence of the convicting magistrate or as may be directed by him. R.S.O. 1950, c. 272, s. 13.

Search  
warrant  
R.S.O. 1960,  
c. 387

**14.—(1)** If a pawnbroker, when requested by a constable authorized by a search warrant issued under *The Summary Convictions Act* to search the shop, refuses to open his shop and permit it to be searched, the constable may break it open and search as he thinks fit therein for such goods or articles, doing no wilful damage, and any pawnbroker or other person who opposes or hinders the search is guilty of an offence and on summary conviction is liable to a fine of not more than \$100.

Restoration  
of goods  
found on  
search

(2) If in the search any of the goods in respect of which the warrant was issued are found and the property of the owner in the goods is proved to the satisfaction of the magistrate, he shall cause them to be forthwith restored to the owner. R.S.O. 1950, c. 272, s. 14.

Daily report  
to police

**15.—(1)** Every pawnbroker shall before 10 o'clock in the forenoon of every business day report to the chief constable

or to such other person as is designated by by-law of the council of the municipality, on forms to be furnished by the municipality, a description of all pledges received by him in pawn on the next preceeding business day together with the numbers of the pawntickets issued therefor and the amounts loaned.

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$40. R.S.O. 1950, c. 272, s. 15.

**16.** The chief constable, or an officer authorized in writing by him or by a magistrate, or any member of the Ontario Provincial Police Force or the Royal Canadian Mounted Police may at all times inspect a pawnbroker's book and shall have access to all books and papers and all pledges, and when engaged in such inspection may take with him such other persons as he deems advisable. R.S.O. 1950, c. 272, s. 16.

**17.** Gold or silver that has been pawned shall not be melted by a pawnbroker unless specially authorized by the council of the municipality. R.S.O. 1950, c. 272, s. 17.

**18.** The holder for the time being of a pawnticket shall, as between the pawner and the pawnbroker, be presumed to be the person entitled to redeem the pledge, and, subject to this Act, the pawnbroker shall accordingly, on payment of the loan and profit, deliver the pledge to the person producing the pawnticket. R.S.O. 1950, c. 272, s. 18.

**19.—**(1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker nevertheless is liable, on application within the period during which the pledge would have been redeemable, to pay the value of the pledge after deducting the amount of the loan and profit, such value to be the amount of the loan and profit and 25 per cent on the amount of the loan.

(2) A pawnbroker has an insurable interest in the pledge to the extent of the value so estimated. R.S.O. 1950, c. 272, s. 19.

**20.—**(1) If within one year after a pledge has been pawned exclusive of the day on which it was pawned, the pawner or other person on his behalf, tenders to the pawnbroker the pawnticket and also the principal money borrowed and the profit according to the lawful rates, and the person who took the pledge neglects or refuses without reasonable cause to deliver back the goods so pawned, the pawner may make oath thereof before a justice of the peace, who shall summon such



person before him, and shall examine on oath the parties and their witnesses touching the premises.

Tender, and  
consequences  
of refusal

(2) If tender of the pawnticket with the principal sum lent, and lawful profit thereon, is proved to have been made within such time, then on payment by the pawner of the principal money and the lawful profit due thereon, or, if the pawnbroker refuses to accept thereof on tender before the justice, the justice shall, by order under his hand, direct the pledge to be forthwith delivered to the pawner, or, if it has been sold, embezzled, lost, mislaid or destroyed, shall direct the pawnbroker to make satisfaction for the value thereof to be fixed by the justice, subject to section 19, and if the pawnbroker neglects or refuses to deliver up the pledge or to make satisfaction for the value thereof the justice shall commit him to the common jail for a period not exceeding three months or until he delivers up the pledge, or makes satisfaction for the value thereof pursuant to the order. R.S.O. 1950, c. 272, s. 20.

Compensa-  
tion for  
depreciation  
of pledge

**21.** If a person entitled and offering to redeem a pledge shows to the satisfaction of a justice of the peace that the pledge has become or has been rendered of less value than it was at the time of the pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the justice may award a reasonable satisfaction to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker, as the case requires, in such manner as the justice directs, and in case of default the pawnbroker is liable to the punishment mentioned in section 20. R.S.O. 1950, c. 272, s. 21.

Protection of  
owners and  
persons not  
having  
pawntickets

**22.—(1)** This section has effect for the protection of persons entitled to redeem a pledge and pawners not having their pawntickets to produce.

Idem

(2) Any person claiming to be entitled to redeem a pledge but not holding the pawnticket may apply to the pawnbroker for a copy of the pawnticket and a printed form of affidavit which the pawnbroker shall deliver to him.

Idem

(3) If the claimant proves to the satisfaction of a justice of the peace his right to redeem the pledge and on or before the third day after the day on which the form of affidavit is delivered to him by the pawnbroker, exclusive of days on which the pawnbroker is prohibited from carrying on business, delivers back to the pawnbroker the affidavit duly sworn and endorsed with a certificate of the justice that such proof has been made, the claimant has, as between him and the pawn-

broker, all the rights and remedies that he would have had if he had produced his pawnticket.

(4) The pawnbroker is not bound to deliver the pledge to *idem* any person until the expiration of such three days.

(5) The pawnbroker shall be indemnified for delivering the *idem* pledge, or otherwise acting in conformity with the affidavit and certificate, unless he has notice that the affidavit is fraudulent or false in a material particular.

(6) If the money lent is under \$20, the pawnbroker may take, *idem* for the copy and affidavit, 5 cents, or, if it is \$20 or more, he may take 10 cents. R.S.O. 1950, c. 272, s. 22.

**23.**—(1) A pledge pawned for \$2 or less if not redeemed within the year of redemption, at the end thereof, becomes *idem* and is the pawnbroker's absolute property. Pledges for \$2 or less not redeemed in time forfeited

(2) A pledge pawned for more than \$2 continues redeemable until it is disposed of, as in this Act provided, although the year of redemption has expired. R.S.O. 1950, c. 272, s. 23. Pledges over \$2 redeemable until sold

**24.**—(1) Where the sum lent exceeds \$2, the pledge shall be sold at public auction and not otherwise. R.S.O. 1950, c. 272, s. 24 (1). When to be at public auction

(2) Before such sale the articles pawned shall be exposed to public view, and an advertisement thereof containing the name and the address of the shop of the pawnbroker, a description of the articles separately, the month the pledge was received in pawn and the number of the pledges shall be published on two separate days in a public newspaper published in the municipality and the second advertisement shall be published at least two clear days before the first day of sale. R.S.O. 1950, c. 272, s. 24 (2), *amended*. Exposition of goods and advertisement

(3) If the articles are not described separately in the advertisement, the pawnbroker shall incur a penalty payable to the owner of the pledge of not less than \$8 and not more than \$40. Penalty

(4) A pawnbroker may bid for and purchase at a sale by auction made or purporting to be made under this Act a pledge pawned with him, and on such purchase he shall be deemed the absolute owner of the pledge purchased. Bidding by pawnbroker

(5) Where a pawnbroker bids at a sale, the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale, and the auctioneer on knocking down any article to a pawnbroker shall forthwith declare audibly the name of the pawnbroker as purchaser. How to be taken

Account of  
sales to be  
kept and  
booked

(6) The pawnbroker shall enter in a book to be kept for that purpose a just account of the sale, showing therein the day of the month on which the articles were pledged, the name of the pawner, the day when, and the money for which each article pledged was sold, and the name and address of the auctioneer.

Disposal of  
surplus

(7) If the pledge is sold for more than was due thereon, the overplus, after deducting the necessary costs and charges of the sale and advertisement, shall be paid to the pawner by whom or upon whose account the pledge was pawned.

Pawner may  
inspect  
entries

(8) The pawner or the person for whom the pledge was pawned or his executor, administrator or assignee has the right to inspect the entry made of the sale on paying 5 cents for the inspection.

Consequence  
of refusal  
to permit  
inspection

(9) If the pawnbroker refuses to permit the pawner or the person for whom the pledge was pawned or his executor, administrator or assignee, upon the production of the probate or letters of administration or the assignment, to inspect such entry, or if the pledge was sold for more than the sum entered in such book, or if the pawnbroker did not make such entry, or did not in good faith sell the pledge according to this Act, or refuses to pay the overplus on demand, in addition to any other liability, he is guilty of an offence and on summary conviction is liable to a fine of not less than \$40 and not more than \$100, and the convicting magistrate may award the whole or any part of the fine to the person aggrieved. R.S.O. 1950, c. 272, s. 24 (3-9).

Restrictions  
upon pawn-  
brokers

**25.—**(1) A pawnbroker shall not,

- (a) purchase any article or receive or take any pledge in pawn from any person who appears to be under the age of fifteen years, or to be intoxicated; or
- (b) purchase or take in pawn a pawnticket issued by any other pawnbroker; or
- (c) employ or permit any servant or other person under sixteen years of age to take pledges in pawn; or
- (d) carry on business as a pawnbroker on Sunday, Good Friday, Christmas Day or any day appointed by the Governor General or the Lieutenant Governor for a general fast or thanksgiving, or on any other day before 8 o'clock in the morning or after 8 o'clock in the evening, except on Saturday evening and the evenings preceding Good Friday and Christmas Day, on which evenings he may keep his shop open until 10 o'clock; or



- (e) under any pretence purchase, except at public auction, any pledge while in pawn with him; or
- (f) suffer any pledge while in pawn with him to be redeemed with a view to his purchasing it; or
- (g) make any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof for the purchase, sale or disposition thereof, within the time of redemption; or
- (h) sell or otherwise dispose of any pledge pawned with him except at such time and in such manner as is authorized by this Act; or
- (i) take in pawn from any person any naval or military medal, badge, decoration or order.

(2) Every pawnbroker who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$40. R.S.O. 1950, c. 272, s. 25.

**26.** When the magistrate is of the opinion that the production of any pawnbook, voucher, pawnticket or other document, which is or ought to be in the hands, custody or power of a pawnbroker is necessary, he shall summon him to attend with it, and the pawnbroker is bound to produce it in the state in which it was when the pledge was pawned, and if he neglects or refuses to attend or to produce it in its true and perfect state he is, unless he shows good cause to the satisfaction of the magistrate, guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$40. R.S.O. 1950, c. 272, s. 26.

**27.** No fee shall be taken by a justice of the peace for any summons or warrant granted by him under this Act, so far as it relates to a pledge. R.S.O. 1950, c. 272, s. 27.

**28.** Unless otherwise provided, all penalties recovered under this Act belong to the municipality in which the offence was committed and shall be paid over to the treasurer thereof. R.S.O. 1950, c. 272, s. 28.

**29.** An information may be laid for any offence against this Act within twelve months next after the offence was committed. R.S.O. 1950, c. 272, s. 29, *amended*.

**30.** This Act extends to the executor or administrator of a deceased pawnbroker, but he is not answerable for any penalty personally or out of his own estate unless it was incurred by reason of his own act or neglect. R.S.O. 1950, c. 272, s. 30.



## CHAPTER 291

### The Penal and Reform Institutions Inspection Act

**1.** In this Act,

Interpre-  
tation

(a) "Department" means the Department of Reform Institutions;

(b) "Minister" means the Minister of Reform Institutions;

(c) "penal and reform institution" means a reformatory under *The Reformatories Act*, The Andrew Mercer Ontario Reformatory under *The Andrew Mercer Reformatory Act*, an industrial refuge under *The Female Refuges Act*, an industrial farm under *The Industrial Farms Act* and a jail or lock-up under *The Municipal Act* or under *The Jails Act*, and includes any other prison, reformatory, industrial farm, jail or other institution or place for confinement or detention of prisoners and other persons charged with or convicted of any offence against the laws of Canada or Ontario, with respect to which by any general or special Act of Canada or Ontario this Act is made applicable;

R.S.O. 1960,  
cc. 347, 15,  
140, 185,  
249, 195

(d) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 273, s. 1.

**2.** The Lieutenant Governor in Council may appoint inspectors of penal and reform institutions with such designations or titles as he deems expedient. R.S.O. 1950, c. 273, s. 2.

Appoint-  
ment of  
inspectors

**3.—(1)** Where an inspector is authorized by the Minister to institute an inquiry into the management or affairs of a penal and reform institution, or into any matter in connection therewith, or into the truth of a return made by an officer thereof and deems that any person should give evidence before him on oath, the inspector has the same power to summon the person to attend as a witness, to enforce his attendance and to compel him to produce documents and to give evidence as any court in civil cases.

Special  
inquiry by  
inspector

(2) An inspector appointed under any other Act may, when authorized by the Minister, exercise the powers conferred by subsection 1 with respect to any penal and reform institution. R.S.O. 1950, c. 273, s. 3.

Powers of  
inspector



## Regulations

**4.** The Lieutenant Governor in Council may make such regulations in respect to penal and reform institutions as are deemed necessary for,

- (a) the powers and duties of inspectors appointed under this Act;
- (b) their inspection, superintendence, government, management, conduct, operation, maintenance, care and use;
- (c) their superintendents, officers, staffs, servants, and employees, and the powers and duties thereof;
- (d) the admission, care, treatment, maintenance, conduct, discipline, punishment, transfer and discharge of prisoners, inmates and other persons confined or detained therein;
- (e) their records, books, accounting systems, audits, reports and returns to be made and kept;
- (f) generally, all matters in any way relating thereto. R.S.O. 1950, c. 273, s. 4.

## Municipal regulations for jails

**5.** No by-law, rule or regulation of a municipality relating to a jail or lock-up established or maintained by it has force or shall take effect until approved by the Minister. R.S.O. 1950, c. 273, s. 5.

## Application of certain regulations R.S.O. 1960, c. 195

**6.** The regulations as to the inspection of penal and reform institutions and *The Jails Act* as to the construction and repair of jails, so far as may be, apply to court houses and lock-ups. R.S.O. 1950, c. 273, s. 6.

## Limitation of actions, etc.

**7.** All actions and prosecutions against any person for anything done in pursuance of this Act shall be commenced within six months after the act committed and not afterwards. R.S.O. 1950, c. 273, s. 7.

## Designation of departmental officer

**8.** The Minister may from time to time designate the officer or officers of the Department who, subject to his direction, shall exercise the powers and duties conferred by statute or by the Lieutenant Governor in Council upon the Department or any officer or officers thereof or upon any officer of any other department in respect of any Act the administration of which is for the time being under the charge or assigned to the Minister and the Department. R.S.O. 1950, c. 273, s. 8.

9.—(1) Notwithstanding anything in this or any other Act, the Minister may designate one or more officers of the Department who shall control and direct all admissions to penal and reform institutions and who may, if permitted by law, from time to time remove or transfer any prisoner, inmate or other person confined or detained therein from any such institution to any other such institution.

Powers of designated officer for transfers of prisoners, patients, etc.

(2) Removals or transfers from a penal and reform institution to an institution under *The Mental Hospitals Act*, or *vice versa*, may, if permitted by law, be made in accordance with the regulations.

Transfers to other institutions R.S.O. 1960, c. 236

(3) Where the official in charge of a penal and reform institution reports to an officer designated under subsection 1 that a prisoner, inmate or other person confined or detained in any such institution requires hospital treatment that cannot be supplied therein, such officer, if otherwise permitted by law, has authority to cause the prisoner, inmate or other such person to be transferred to a public hospital for such treatment.

Transfers to public hospitals

(4) The charges for such hospital treatment shall be paid by the prisoner, inmate or other person unless he is an indigent person in which case the charges are payable in the same manner as charges for indigent patients are payable under *The Public Hospitals Act*. R.S.O. 1950, c. 273, s. 9.

Charges for public hospital treatment

R.S.O. 1960, c. 322





## CHAPTER 292

## The Personation Act

**1.** Where a person is charged at a polling place with having committed the offence of personation as defined by section 160 of *The Election Act*, the deputy returning officer at such place may take the information on oath of the person making the charge (Form 1), and it is the duty of the deputy returning officer to take the information when requested so to do by a candidate or his agent. R.S.O. 1950, c. 274, s. 1.

Information  
before officer  
at registry  
or polling  
place

**2.** Where the information is laid before a deputy returning officer and a warrant for the arrest of the offender is issued by him under this Act, the punishment or penalty imposed by law, notwithstanding *The Election Act*, may be imposed by or recovered before a magistrate or two justices of the peace under *The Summary Convictions Act*. R.S.O. 1950, c. 274, s. 2, amended.

Mode of  
recovering  
penalty

R.S.O. 1960,  
cc. 118, 387

**3.** Where the person against whom it is proposed to lay the information has not left the polling place, the deputy returning officer may, either of his own motion or at the request of any one proposing forthwith to lay an information against such person, detain him or direct his detention until an information can be laid and a warrant for his arrest issued. R.S.O. 1950, c. 274, s. 3.

When  
offender  
may be  
detained

**4.** Where the information is laid, the deputy returning officer may on the polling day, but not afterwards, issue his warrant (Form 2) for the arrest of the person charged, in order that he may be brought before a magistrate or justices of the peace to answer the information and to be further dealt with according to law. R.S.O. 1950, c. 274, s. 4.

When  
warrant  
may be  
issued

**5.** The warrant is sufficient authority for any constable, peace officer or jailer to detain such person until he is brought before a magistrate or justices of the peace. R.S.O. 1950, c. 274, s. 5.

Authority of  
constable,  
etc., under  
warrant

**6.** Where the correct name of the person charged is unknown to the informant, it is sufficient in the information and other proceedings to describe the person charged as a person whose name is unknown, but who is detained by the authority of the deputy returning officer under this Act, or

Where  
name of  
person  
charged is  
unknown

the person charged may be described in such other manner as will sufficiently identify him, but when the name of the person so charged has been ascertained, it shall be stated in any subsequent warrant or proceeding. R.S.O. 1950, c. 274, s. 6.

Authority of  
certain  
officers

**7.** Every poll clerk has the authority of a constable for the purpose of carrying out the provisions of this Act, and every deputy returning officer may appoint such special constables as he deems necessary for the like purpose, and such persons have full power to act without taking any oath. R.S.O. 1950, c. 274, s. 7.

Form of  
information  
and warrant

**8.** Informations and warrants may be in accordance with the forms in the Schedule, but it is not necessary for a warrant to have a seal affixed thereto, and the omission of a seal, where a warrant purports to be sealed, does not invalidate it. R.S.O. 1950, c. 274, s. 8.

Supply of  
forms

**9.** Every Crown attorney shall keep in his office a sufficient supply of printed forms of such informations and warrants, and shall upon the request of the returning officer furnish him with as many of such forms as are necessary for the use of the deputy returning officer, and every returning officer shall, before the polling day, furnish each deputy returning officer with at least ten of each of such forms. R.S.O. 1950, c. 274, s. 9.

Allowance to  
Crown  
attorney for  
supplying  
forms

**10.—(1)** For providing and furnishing the forms, the Crown attorney shall be allowed \$4 for each election for which such forms are supplied, to be paid on the production of the receipts of the officer or officers to whom they were furnished.

How  
chargeable

**(2)** The fees and the disbursements of the Crown attorney in obtaining the forms shall form part of the expenses of criminal justice. R.S.O. 1950, c. 274, s. 10.

Pecuniary  
penalty

**11.** Every person guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, \$400. R.S.O. 1950, c. 274, s. 11.

## FORM 1

## (Section 1)

## INFORMATION FOR PERSONATION AT A POLLING PLACE

County of..... } The information of ..... of  
 To Wit: } the.....of....., taken this  
 .....day of....., 19...., before the  
 undersigned, a deputy returning officer at a  
 polling place in the.....of.....for an election then being  
 held of a Member of the Legislative Assembly for the Electoral District  
 of.....

The informant says that he believes that.....(1)  
 on this day at the said polling place did commit the offence of personation  
 contrary to *The Election Act*, for that the said.....

(2) did apply for a ballot paper in the name of another person, that is  
 to say, in the name of C. D. (3).

A.B.,  
 Informant.

Taken and sworn (4) before me at the said polling place on the day  
 and year above mentioned.

W.J.

NOTE—(1) *If the name of the person charged is unknown to the informant substitute "a person whose name is unknown to the informant but who is now detained in the said polling place under my order."*

(2) *Or, "person whose name is unknown".*

(3) *Or, "having voted at the same election, did apply for a ballot paper in his own name", or "did vote more than once at the same election".*

(4) *Or, if the informant is a person who may by law affirm in civil cases then for "sworn" substitute "solemnly affirmed".*

R.S.O. 1950, c. 274, Form 1.



## FORM 2

(Section 4)

## WARRANT FOR PERSONATION AT POLLING PLACE

County of.....

To Wit:

To all or any of the constables and other  
peace officers in the .....of  
.....and.....of.....

Whereas information on oath has this day  
been taken before the undersigned, a deputy returning officer at a polling  
place in the .....of.....for an  
election then being held of a Member of the Legislative Assembly for  
the Electoral District of.....for that  
.....(1) on this day at the said polling place did  
commit the offence of personation contrary to *The Election Act*, for that  
the said.....(2) did apply  
for a ballot paper in the name of another person, that is to say, in the  
name of.....(or as the case may be, describing  
the offence as in the information).

These are therefore to command you in Her Majesty's name forth-  
with to apprehend the said.....and to bring him  
before the Magistrate of the said.....or before two  
Justices of the Peace for the said county, to answer the said information  
and to be further dealt with according to law.

Given under my hand and seal this.....day of.....  
19.....

W.J.

NOTE.—(1) *If the name of the person charged is unknown substitute "a person whose name is unknown to the informant but who is now detained in the said polling place, and is being delivered into the custody of G. D., a constable of the said ....."*

(2) *Or, "person whose name is unknown".*

R.S.O. 1950, c. 274, Form 2.

## CHAPTER 293

## The Pesticides Act

## 1. In this Act,

Interpre-  
tation

- (a) "board of health" means a local board of health within the meaning of *The Public Health Act* or a person given the power of a local board of health under that Act; <sup>R.S.O. 1960, c. 321</sup>
- (b) "extermination" means the destruction or control of insects, vermin, birds, rodents or other pests, fungi or vegetation in a building or vehicle or on land by the use of any substance prescribed by the regulations;
- (c) "exterminator" means any person who, by himself or by his employees, assistants or agents, carries out an extermination;
- (d) "licence" means a licence issued under the regulations;
- (e) "medical officer of health" means a medical officer of health within the meaning of *The Public Health Act*;
- (f) "Minister" means the Minister of Health;
- (g) "regulations" means the regulations made under this Act. 1956, c. 63, s. 1.

2.—(1) No exterminator shall engage in, perform or offer to perform an extermination unless he is licensed or exempt under the regulations. <sup>Licence required</sup>

(2) No person shall serve as an employee of an exterminator for a period longer than six months unless he is licensed as an assistant exterminator or exempt under the regulations. <sup>When employees to be licensed</sup> 1956, c. 63, s. 2.

3. Every exterminator is with respect to an extermination responsible for the acts or omissions of his employees, assistants or agents during the periods of extermination and airing-out. <sup>Responsibility of exterminator</sup> 1956, c. 63, s. 3.

4. An exterminator shall insure against liability or furnish a bond as provided by the regulations 1956, c. 63, s. 4. <sup>Liability insurance</sup>

**Municipal  
by-laws**

**5.—(1)** The council of any municipality may pass by-laws respecting extermination not inconsistent with this Act and the regulations.

**Fee for  
permit**

(2) Any such by-law may require a fee of \$1 to be paid to the municipality for every permit for extermination issued under the regulations.

**Approval**

(3) No by-law passed under this section has effect until approved by the Minister. 1956, c. 63, s. 5.

**Appointment  
of inspectors**

**6.** The council of every municipality shall appoint such inspectors as the Minister deems necessary to administer and enforce this Act, the regulations and any by-law respecting extermination. 1956, c. 63, s. 6.

**Notice of  
extermina-  
tion**

**7.—(1)** At least twenty-four hours before commencing an extermination with a poisonous gas designated by the regulations, the exterminator shall deliver a notice in writing,

- (a) to every occupant over eighteen years of age in the building or vehicle or on the land where the extermination is to be carried out; and
- (b) to at least one occupant over eighteen years of age,
  - (i) of every building adjoining the building where the extermination is to be carried out, and
  - (ii) of every building so located that the extermination constitutes an actual or potential hazard to its occupants.

**Contents  
of notice**

- (2) Every such notice shall state,
  - (a) the address where the extermination is to be carried out;
  - (b) that there is danger of poisonous gas;
  - (c) the date and day of the week when it is proposed to commence the extermination;
  - (d) that occupants are to vacate and remain out of the buildings, vehicles or lands during the periods of extermination and airing-out; and
  - (e) such information as is prescribed by the regulations.

**Duty of  
exterminator**

(3) The exterminator shall ensure that the buildings, vehicles or lands referred to in this section are unoccupied during the periods of extermination and airing-out. 1956, c. 63, s. 7.



**8.** Any officer of the Department of Health or a board of health may at any time enter any building, vehicle or land where he has reason to believe that an extermination has been, is being or is about to be carried out. 1956, c. 63, s. 8.

**9.** Where an officer of the Department of Health or a board of health requests that he be given the chemical composition of any substance that has been, is being or is about to be used for an extermination, the person performing the extermination shall forthwith furnish the information so requested. 1956, c. 63, s. 9.

**10.** The Minister, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing the qualifications of exterminators and assistant exterminators and providing for the examination of applicants for licences as exterminators and assistant exterminators;
- (b) providing for different classes of exterminators, the issue and renewal of licences to exterminators and to assistant exterminators in each class, the fees therefor, and the terms upon which licences may be issued, renewed, suspended or cancelled;
- (c) requiring applicants for licences as exterminators or assistant exterminators to undergo a medical examination;
- (d) prescribing the procedures and conditions for exterminations and for the airing-out of buildings or vehicles;
- (e) exempting any person or class of persons from this Act and the regulations or any provision thereof;
- (f) fixing the amount and type of insurance or bond that shall be carried or furnished by an exterminator and prescribing the form, requirements and terms thereof;
- (g) providing for the issue of permits by the medical officer of health for exterminations and the terms upon which permits may be issued, refused or cancelled;
- (h) prescribing the form and contents of the notice under section 7;
- (i) prescribing and classifying into groups the substances that may be used in exterminations and prohibiting any class of exterminator from using one or more of the groups of substances;

- (j) exempting any type or class of building, vehicle or land from this Act and the regulations or any provision thereof;
- (k) regulating the installation, operation and use of any machine, apparatus or equipment used for an extermination;
- (l) regulating the construction of any enclosed space or vault in which movable property may be placed during the periods of extermination and airing-out;
- (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1956, c. 63, s. 10.

## Offence

**11.**—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$10 and not more than \$100, and for a second or subsequent offence to a fine of not less than \$50 and not more than \$1,000 or to imprisonment for a term of not more than three months, or to both.

Suspension  
of licence

(2) Where an exterminator or assistant exterminator is convicted under subsection 1, in addition to the penalties therein provided the magistrate making the conviction may make an order suspending the licence of an exterminator or assistant exterminator for a period of not more than six months.

Minister  
to receive  
copy of  
order

(3) The magistrate shall cause a copy of every order made under subsection 2 to be sent to the Minister. 1956, c. 63, s. 11.

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## CHAPTER 294

## The Petty Trespass Act

**1.**—(1) Every person who unlawfully enters or in any other way trespasses upon another person's land, Offence of trespass

(a) that is enclosed;

(b) that is a garden or lawn; or

(c) with respect to which he has had notice by word of mouth, or in writing, or by posters or sign boards so placed as to be visible from every point of access to the land, not to trespass,

and whether or not any damage has been occasioned thereby, is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$10.

(2) Where an offence under subsection 1 is committed by means of a motor vehicle, the driver of the motor vehicle, not being the owner, is liable to the fine provided under subsection 1 and the owner of the motor vehicle is also liable to the fine provided under subsection 1 unless at the time the offence was committed the motor vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. 1954, c. 69, s. 1. Trespass by means of motor vehicle

**2.** Every person found committing such a trespass may be apprehended without warrant by any peace officer, or by the owner of the land on which it is committed, or the servant of, or any person authorized by such owner, and be forthwith taken before the nearest justice of the peace to be dealt with according to law. R.S.O. 1950, c. 275, s. 2. Arrest of trespasser without warrant

**3.** Nothing in this Act authorizes any justice of the peace to hear and determine a case of trespass in which the title to land, or to any interest therein, is called in question or affected, but every such case shall be dealt with according to law in the same manner as if this Act had not been passed. R.S.O. 1950, c. 275, s. 3. Saving cases involving title to land

**4.** Nothing in sections 1 and 2 extends to a case where the person trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, or to a case within section 373 of the *Criminal Code* (Canada). R.S.O. 1950, c. 275, s. 4. Saving persons claiming a right 1953-54, c. 51 (Can.)



By-laws to  
declare  
boundaries  
in marshes

**5.** The council of a township may pass by-laws for declaring that in the case of land, the boundary line or any part of the boundary line of which passes through a marsh or swamp or any land covered with water, the land, so far as respects that part of the boundary line which so passes, shall be deemed to be wholly enclosed within the meaning of this Act if posts are maintained along such part at intervals that permit of each post being clearly visible from the next post. R.S.O. 1950, c. 275, s. 5.

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## CHAPTER 295

## The Pharmacy Act

## 1. In this Act,

Interpre-  
tation

- (a) "College" means The Ontario College of Pharmacy;
- (b) "Council" means the Council of The Ontario College of Pharmacy;

(c) "dentist" means a person legally qualified and entitled to practise the profession of dentistry in Ontario; 1953, c. 79, s. 1, cls. (a-c).

(d) "drug" means,

- (i) any substance that is named in the latest edition from time to time of the British Pharmacopoeia, the British Pharmaceutical Codex, the Pharmacopoeia of the United States of America, the National Formulary, the New and Nonofficial Remedies, the Canadian Formulary, the Codex Francais or the Pharmacopoea Internationalis, or

(ii) any preparation containing any substance mentioned in subclause i, or

(iii) any substance that is offered for sale or sold for the prevention or treatment of any ailment, disease or physical disorder, or

(iv) any substance that is named by regulation made by the Lieutenant Governor in Council,

but does not include any such substance or preparation offered for sale or sold as, or as part of, a food, drink or cosmetic or for any purpose other than the prevention or treatment of any ailment, disease or physical disorder; 1957, c. 91, s. 1; 1960, c. 82, s. 1.

(e) "Minister" means the Minister of Health:

(f) "pharmaceutical chemist" means a member of the College registered under this Act;

(g) "pharmacy" means a shop operated for the purpose of,

- (i) selling by retail poisons or drugs, or

- (ii) compounding and dispensing prescriptions of legally qualified medical practitioners, dentists and veterinary surgeons;

(h) "poison" means,

- (i) any substance referred to in Schedule A,
- (ii) any preparation referred to in Schedule A, or
- (iii) where no preparation is referred to in Schedule A in respect of any substance in the Schedule, any preparation containing such substance;

(i) "prescription" means a direction from a legally qualified medical practitioner, dentist or veterinary surgeon directing the dispensing of any drug or mixture of drugs to a named person;

(j) "registrar" means the registrar appointed by the Council under this Act;

(k) "regulations" means the regulations made under this Act; 1953, c. 79, s. 1, cls. (e-k).

(l) "veterinary medicine" means any substance or preparation, other than a substance or preparation referred to in Schedule D, that is used or intended for use for the prevention or treatment of any ailment, disease or physical disorder of animals or birds; 1954, c. 70, s. 1.

(m) "veterinary surgeon" means a person who holds a certificate entitling him to practise veterinary science under *The Veterinarians Act*. 1953, c. 79, s. 1, cl. (l).

R.S.O. 1960,  
c. 416

#### Exemptions

### 2. Nothing in this Act,

(a) prevents or interferes with the sale or distribution of drugs to owners of animals or birds under any Act of the Parliament of Canada;

(b) prevents a person from selling or affects or interferes with the sale by any person of,

R.S.C. 1952,  
c. 220

(i) any medicine registered under the *Proprietary or Patent Medicine Act* (Canada),

R.S.C. 1952,  
c. 209

(ii) any substance registered under the *Pest Control Products Act* (Canada) and sold in accordance with its provisions,

R.S.C. 1952,  
c. 113

(iii) any feeding stuffs registered under the *Feeding Stuffs Act* (Canada);



- (c) affects or interferes with the rights or privileges conferred upon a legally qualified medical practitioner by *The Medical Act*; R.S.O. 1960,  
c. 234
- (d) affects or interferes with the rights or privileges conferred upon a chiropodist by *The Chiropody Act*; R.S.O. 1960,  
c. 57
- (e) prevents any person from selling any poison or drug to a legally qualified medical practitioner, dentist, veterinary surgeon or pharmaceutical chemist; 1953, c. 79, s. 2, cls. (a-e).
- (f) prevents a legally qualified medical practitioner or dentist from compounding, dispensing, selling or supplying such drugs as he prescribes in the course of the practice of his profession;
- (g) prevents a veterinary surgeon or any person designated by him for the purpose from compounding, dispensing, selling or supplying,
  - (i) veterinary medicine, or
  - (ii) such substance or preparation referred to in Schedule D as he prescribes, or specifies,in the course of the practice of his profession; 1954, c. 70, s. 2.
- (h) interferes with the business of wholesale dealers in supplying poisons to persons entitled to sell them by retail, if the containers in which they are supplied are marked or labelled in accordance with section 41;
- (i) interferes with the business of wholesale dealers in supplying poisons in the course of such wholesale business to any person for any purpose other than for sale by retail;
- (j) affects or interferes with the compounding, dispensing or supplying of poisons or drugs in any hospital or institution approved or licensed under any general or special Act;
- (k) prevents a person from selling or affects or interferes with the sale by any person of any article or substance referred to in Schedule B. 1953, c. 79, s. 2, cls. (h-k).

## PART I

### THE COLLEGE

**3.** The Ontario College of Pharmacy is continued under that name as a body corporate and for the purposes of the College  
continued

College may purchase, acquire, hold, mortgage, lease and dispose of real and personal property. 1953, c. 79, s. 3.

Council

**4.—**(1) There shall continue to be a Council of the College the members of which shall be elected from among members of the College registered under this Act. 1953, c. 79, s. 4 (1).

Dean  
*ex officio*  
member

(2) The Dean of the Faculty of Pharmacy of the University of Toronto is *ex officio* a member of the Council. 1954, c. 70, s. 3.

Term of  
office

(3) Each elected member of the Council shall hold office for a period of two years commencing on the first Monday in November next following his election. 1953, c. 79, s. 4 (2).

Electoral  
divisions

**5.** The Council shall by by-law divide Ontario into not fewer than thirteen and not more than fifteen electoral divisions and shall fix the boundaries of such divisions. 1953, c. 79, s. 5 (2).

Redivision

**6.—**(1) The Council may by by-law redivide Ontario into not fewer than thirteen and not more than fifteen electoral divisions or may rearrange the boundaries of the electoral divisions.

Restriction  
on number  
of by-laws

(2) Not more than one by-law to vary the number of electoral divisions or to vary the boundaries thereof shall be passed in any period of ten years. 1953, c. 79, s. 6.

Election  
of members  
of Council

**7.—**(1) An election of members of the Council to be elected shall be held on the first Wednesday in August in every second year following the last preceding election and one member of the Council shall be elected from each electoral division from among those entitled to vote.

Members  
entitled  
to vote

(2) Every member of the College registered under this Act who is not in default in payment of any fees payable by him under this Act,

(a) may vote in the electoral division in which his place of business or employment is located; or

(b) if he carries on business or is employed in more than one electoral division, shall name one of such divisions as his principal place of business or employment and may vote in that division only; or

(c) if he has no fixed place of business or employment in Ontario, may vote in the electoral division in which he resides. 1953, c. 79, s. 7.

**8.** The Council, at its first meeting, shall elect a president and a vice-president from among its members. 1953, c. 79, s. 8. Election of president and vice-president

**9.** The Council shall appoint a registrar who shall hold office during the pleasure of the Council and shall receive such remuneration as the Council determines. 1953, c. 79, s. 9. Registrar

**10.** The Council shall hold at least two meetings for the transaction of general business in every year at such times and at such places as it from time to time by resolution determines. 1953, c. 79, s. 10. Meetings of Council

**11.** If a member of the Council ceases to be qualified to vote in the electoral division for which he was elected, he ceases to be a member of the Council. 1953, c. 79, s. 11. Vacancy on Council

**12.** A member of the Council may at any time, by giving notice in writing to the registrar, resign his office, and in case of a vacancy occurring through resignation or otherwise, Filling vacancy on Council

(a) if the vacancy occurs more than six months before the date a general election is required to be held, an election shall be held within one month of the occurrence of the vacancy in the electoral division in which the vacancy occurred; or

(b) if the vacancy occurs less than six months before the date a general election is required to be held, the Council, at its next regular meeting after the vacancy occurs, shall appoint a member of the College qualified to vote in the electoral division in which the vacancy occurred to fill the vacancy for the balance of the term. 1953, c. 79, s. 12.

**13.** The Council has sole control and management of the real and personal property of the College. 1953, c. 79, s. 13. Power of Council as to property of College

**14.** The Council may establish, maintain and operate a school for the education of students of pharmacy and appoint such teachers, examiners, inspectors and such other officers and employees as it considers necessary. 1953, c. 79, s. 14. Operation of school

**15.** The Council may make grants out of College funds to the Canadian Pharmaceutical Association or to any other association that in the opinion of the Council promotes the interests of pharmacy or of those engaged in the practice thereof and may appoint from time to time representatives to attend meetings of any such association and may pay the expenses of such representatives out of College funds. 1953, c. 79, s. 15. Grants by Council



Honorary  
membership

**16.** The Council may elect as honorary members of the College such persons as they deem eminent for scientific attainments, but no such honorary member as such is entitled to vote at elections or to operate a pharmacy. 1953, c. 79, s. 16.

## By-laws

**17.** The Council may pass by-laws,

- (a) providing for the discipline, suspension or expulsion for cause of students at any school operated by the Council;
- (b) providing for the remuneration and expenses of members of the Council or of persons employed by the Council while engaged upon the business of the College;
- (c) regulating the calling and conduct of its meetings and proceedings;
- (d) providing for the appointment and remuneration of teachers, examiners, inspectors and such other persons as the Council may employ and prescribing their duties;
- (e) providing for the holding of elections of members of the Council to be elected including the nominations of candidates, the notice of elections, the taking of the vote and a casting vote in case of an equality of votes;
- (f) fixing the date for payment of any annual fee required to be paid under this Act;
- (g) providing for the appointment of a discipline committee composed of not fewer than seven members of the Council and such other committees as the Council deems necessary. 1953, c. 79, s. 17.

## Registration

**18.** Every applicant for registration as a pharmaceutical chemist,

- (a) who,
  - (i) has been granted the degree of Bachelor of Science in Pharmacy by the University of Toronto or such other degree by such university or institution of learning as the regulations prescribe, or
  - (ii) has completed such course of study and has passed such examinations as the regulations prescribe; and

- (b) who has served as an apprentice for such term and in accordance with such conditions as the regulations prescribe; and
- (c) who has paid the fees for registration prescribed by the regulations,

shall be registered as a pharmaceutical chemist and thereupon becomes a member of the College. 1953, c. 79, s. 18.

**19.—(1)** The registrar shall keep,

Registers

- (a) a register of all persons registered under this Act as pharmaceutical chemists showing their places of business or employment from time to time; and
- (b) a register of all persons registered under this Act as apprentices showing the name and business address of the pharmaceutical chemist to whom each is apprenticed.

(2) When the registrar is satisfied that an applicant for <sup>Entry</sup> registration is entitled to be registered, he shall enter the name of the applicant in the proper register.

(3) If an application for registration is refused by the registrar or an entry is made in a register in error or by reason <sup>Entry on order of Council</sup> of misrepresentation, the Council may direct that any necessary entry, erasure or amendment be made in the register and the registrar shall make such entry, erasure or amendment. 1953, c. 79, s. 19.

**20.—(1)** There is payable to the registrar for the use of <sup>Fees</sup> the College on such date in each year as is fixed by by-law such annual fees as the regulations prescribe,

- (a) by every pharmaceutical chemist;
- (b) in addition to the fee paid under clause *a*, by every pharmaceutical chemist who is owner or manager of a pharmacy;
- (c) in addition to the fees paid under clauses *a* and *b*, by every pharmaceutical chemist who is a director of a corporation operating a pharmacy; and
- (d) by every person or corporation operating more than one pharmacy, for each additional pharmacy.

(2) Every person or corporation upon payment of any of <sup>Certificate of payment</sup> the fees referred to in subsection 1 is entitled to receive a certificate of payment in such form as the Council prescribes.

Person in  
default in  
payment  
of fees

(3) No person who is in default in payment of any fee payable by him under this section is entitled to exercise any of the rights or privileges of a pharmaceutical chemist. 1953, c. 79, s. 20.

Certificate  
of registra-  
tion

**21.**—(1) Every person when his name is entered in the register as a pharmaceutical chemist is entitled to receive a certificate of registration which is valid until the date fixed for the payment of the annual fee.

Annua

(2) Every pharmaceutical chemist upon payment of the annual fee prescribed by the regulations under clause *a* of subsection 1 of section 20 is entitled to a renewal of a certificate of registration which is valid for one year from the date fixed for payment of the annual fee.

Form

(3) A certificate of registration and a renewal thereof shall be under the seal of the College in such form as the Council prescribes, and is *prima facie* evidence of registration under this Act.

Display

(4) Every pharmaceutical chemist shall display his certificate of registration and any renewal thereof in a conspicuous position in his pharmacy or in the pharmacy in which he is employed. 1953, c. 79, s. 21.

Registrar's  
certificate  
as evidence

**22.** A copy of any writing, paper or document furnished to the registrar pursuant to this Act or any statement containing information from the records required to be kept by the registrar under this Act purporting to be certified by the registrar under the seal of the College is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the registrar and without proof of the seal. 1960, c. 82, s. 2, *part*.

Analyst's  
certificate  
as evidence

**23.** In any prosecution under this Act, a certificate as to the analysis of any drug or poison purporting to be signed by a Dominion or Provincial analyst is admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the analyst. 1960, c. 82, s. 2, *part*.

Regulations

**24.** The Council, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing the qualifications of apprentices and the length of term and the terms and conditions of apprenticeship;
- (b) providing for the registration of apprentices and prescribing the fees therefor;



- (c) prescribing the qualifications of, and the courses of studies to be completed by candidates for registration as pharmaceutical chemists under this Act;
- (d) designating the universities or other institutions of learning at which the courses of studies may be undertaken and degrees may be obtained under this Act;
- (e) prescribing the examinations to be passed and the degrees to be obtained by candidates for registration as pharmaceutical chemists;
- (f) providing for the approval by the Council of persons who may be registered as pharmaceutical chemists without examination and prescribing the qualifications of such persons;
- (g) prescribing the fees to be paid by applicants for registration as pharmaceutical chemists and by other persons referred to in section 20. 1953, c. 79, s. 23.

**25.**—(1) Every person who proposes to open a new pharmacy or who acquires an existing pharmacy shall, within the time prescribed by subsection 2, furnish the registrar with a signed statement showing, Notification of registrar re opening of business

- (a) his full name;
- (b) his place of residence;
- (c) the location of his place of business;
- (d) the date he proposes to commence business or, if he has acquired an existing pharmacy, the date that he acquired it.

(2) If such person proposes to open a new pharmacy, he shall furnish the information required by subsection 1 at least thirty days before he opens such pharmacy, and, if he proposes to operate an existing pharmacy, he shall furnish such information before he operates the pharmacy. 1953, c. 79, s. 24. Time of notification

**26.** Every corporation operating a pharmacy shall, Registrar to be notified of names of directors and shareholders

- (a) before commencing business notify the registrar of the names and addresses of the directors and shareholders of the corporation and the number of shares held by each; and
- (b) when requested by the registrar by registered mail, notify the registrar within seven days of the receipt of such request of the names and addresses of the

directors and shareholders, and the number of shares held by each as of the date the request was received. 1953, c. 79, s. 25.

Owner to  
notify  
registrar  
of manager,  
etc.

**27.** The owner of every pharmacy shall, on or before the 10th day of January in each year, notify the registrar of the name of the manager of each pharmacy owned by him and of the pharmaceutical chemists and registered apprentices employed therein, and shall notify the registrar of any change in the management, or in the pharmaceutical chemists or apprentices employed, within five days of such change. 1953, c. 79, s. 26.

Books,  
records,  
returns, etc.,  
of  
pharmacies

**28.** The Council, with the approval of the Lieutenant Governor in Council, may make regulations prescribing the books and records to be kept, returns to be made and information to be furnished with respect to pharmacies and the examination and audit that shall be made of such books and records. 1960, c. 82, s. 3.

Cancellation  
of registra-  
tion

**29.—(1)** The Council or the discipline committee appointed under a by-law passed by the Council may direct that the registration of any person be cancelled, or that the registration of any person be suspended for such time as the Council or the discipline committee deems proper,

(a) if such person has been convicted of an offence against any Act of the Parliament of Canada or of the legislature of any province of Canada relating to the sale of drugs, poisons, medicines or alcoholic liquors; or

R.S.O. 1960,  
cc. 237, 236

(b) if such person has been declared to be mentally incompetent under *The Mental Incompetency Act* or has been certified or found to be mentally ill under *The Mental Hospitals Act*; or

(c) if it finds that such person has been guilty of negligence, incompetency or improper conduct in a professional respect,

and the registrar shall note such cancellation in the register, and any certificate issued to such person under this Act is thereby cancelled. 1953, c. 79, s. 27 (1); 1960, c. 82, s. 4 (1).

Quorum of  
discipline  
committee

(2) Five members of the discipline committee constitute a quorum for the purposes of this section. 1953, c. 79, s. 27 (2).

Hearing

(3) Before the Council or discipline committee cancels or suspends any registration under this section it shall afford the person against whom the complaint has been made an op-

portunity of appearing before it and of presenting such evidence and making such representations as he desires. 1953, c. 79, s. 27 (3); 1960, c. 82, s. 4 (2).

(4) A pharmaceutical chemist or apprentice whose registration has been cancelled or suspended under this section shall not operate a pharmacy either on his own behalf or as an employee and shall not act as a director or vote or interfere as a shareholder in a corporation operating a pharmacy. 1953, c. 79, s. 27 (4); 1960, c. 82, s. 4 (3). Prohibition to carry on business when registration cancelled

(5) A pharmaceutical chemist or apprentice whose registration has been cancelled or suspended under this section may within three months apply to a judge of the Supreme Court and the judge may review the decision of the Council and may make such order and give such directions as he deems proper and his decision is final. 1953, c. 79, s. 27 (5); 1960, c. 82, s. 4 (4). Review

(6) The Council may upon application reinstate a person whose registration has been cancelled or suspended under this section. 1953, c. 79, s. 27 (6); 1960, c. 82, s. 4 (5). Reinstatement

(7) No action shall be brought by any person against the Council or any member thereof for anything done in good faith under this section. 1953, c. 79, s. 27 (7). No action against Council

**30.**—(1) Where a person has not paid any annual fee as required by subsection 1 of section 20 within fifteen days after the date it was payable, the registrar may give him notice of such default by registered mail, sent to his last address as shown on the register, and if default continues for fifteen days thereafter the Council may direct that the registration of such person be cancelled, and the registrar shall note such cancellation in the register, and any certificate issued to such person under this Act is thereby cancelled. Cancellation of registration for failure to pay fees

(2) A person whose registration has been cancelled under this section shall be reinstated on payment of a fee of \$10 and the annual fee for the year in which the application for reinstatement is made. 1953, c. 79, s. 28. Reinstatement

**31.**—(1) A pharmaceutical chemist may on application in writing to the registrar and upon surrender of his certificate of registration have his name erased from the register. Voluntary erasing of name from register

(2) A pharmaceutical chemist whose name has been so erased and who is otherwise eligible for registration may on application have his name re-entered on the register upon payment of the annual fee for the then current year. 1953, c. 79, s. 29. Re-entry of name in register



Prohibition  
against use  
of certain  
titles

**32.** No person other than a pharmaceutical chemist shall,

- (a) assume or use the title,
  - (i) chemist and druggist,
  - (ii) chemist, in connection with a retail business,
  - (iii) druggist,
  - (iv) pharmacist,
  - (v) pharmaceutical chemist,
  - (vi) apothecary,
  - (vii) dispensing chemist, or
  - (viii) dispensing druggist; or
- (b) use the designation,
  - (i) drug store, or
  - (ii) pharmacy; or
- (c) use, in connection with a retail business, the designation,
  - (i) drug sundries,
  - (ii) drug or drugs, or
  - (iii) medicines; or
- (d) use any sign or emblem, title or advertisement that implies or is calculated to lead the public to infer that he is registered as a pharmaceutical chemist under this Act. 1953, c. 79, s. 30.

Medical  
practitioner  
carrying on  
business

**33.** Where a legally qualified medical practitioner desires to operate a pharmacy, he shall not be required to pass the examinations prescribed by the regulations, but he shall register as a pharmaceutical chemist and comply with all other requirements of this Act. 1953, c. 79, s. 31.

Operation of  
pharmacies  
by  
corporation

**34.—(1)** No corporation shall operate a pharmacy unless the majority of the directors of the corporation are registered as pharmaceutical chemists under this Act.

Idem

(2) No corporation shall operate a pharmacy unless a majority of each class of shares of the corporation is owned by and registered in the name of pharmaceutical chemists.

Application  
of subs. 2

(3) Subsection 2 does not apply to any corporation operating a pharmacy on the 14th day of May, 1954. 1953, c. 79, s. 32.

**35.** Any record required to be kept under this Act shall be open to inspection by any constable or other police officer or by any inspector appointed under a by-law passed by the Council. 1953, c. 79, s. 33. Records open to inspection

**36.** An inspector appointed under a by-law passed by the Council under this Act may enter any pharmacy or other shop in the performance of his duties under this Act at all reasonable times. 1953, c. 79, s. 34. Inspector's power of entry

## PART II

### SALE OF POISONS AND DRUGS

**37.** No person or corporation shall keep open or operate a pharmacy unless it is under the personal supervision of and is managed by a pharmaceutical chemist. 1953, c. 79, s. 35. Operation of pharmacy

**38.**—(1) Except as otherwise provided in this Act or the regulations, no person, other than a pharmaceutical chemist, shall, Prohibition re sale of poisons, etc.

- (a) keep open shop for retailing, dispensing or compounding any poison or drug; or
- (b) sell, offer for sale or keep for sale, by retail any poison or drug; or
- (c) dispense or compound prescriptions of legally qualified medical practitioners, dentists or veterinary surgeons.

(2) Clauses *b* and *c* of subsection 1 do not apply to an apprentice registered under this Act when acting under the supervision of a pharmaceutical chemist. 1953, c. 79, s. 36. Apprentices

**39.** No person or corporation shall sell by wholesale any poison or drug for the purpose of sale by retail to any person not entitled to sell the same by retail. 1953, c. 79, s. 37. Sale by wholesalers

**40.**—(1) Where a person or corporation operating a pharmacy becomes bankrupt, insolvent or makes an assignment for the benefit of creditors, if the trustee in bankruptcy, liquidator or assignee, as the case may be, is authorized to operate the pharmacy, it shall be operated only under the personal supervision and management of a pharmaceutical chemist. Carrying on business of bankrupt person

(2) Upon the death of a pharmaceutical chemist who was operating a pharmacy at the time of his death, the personal representative of such deceased person may operate the Carrying on business of deceased person

pharmacy under the personal supervision and management of a pharmaceutical chemist for a period of four years or for such further period as the Council authorizes.

Notification  
of registrar  
of authority  
to carry on  
business

(3) Every person or corporation authorized to operate a pharmacy under subsection 1 or 2 shall immediately upon becoming so authorized file with the registrar evidence of his or its authority. 1953, c. 79, s. 38.

Container  
to be marked  
"poison"

**41.** No person shall sell poison,

- (a) by wholesale, unless the word "poison" is legibly and conspicuously displayed on the outer surface of the container in which the poison is contained; or
- (b) by retail, unless the word "poison" and the address of the establishment in which the poison is sold and the name of the owner thereof are legibly and conspicuously displayed on the outer surface of the container in which the poison is contained. 1953, c. 79, s. 39.

Sale of  
poison to  
person  
unknown to  
seller

**42.** No person shall sell by retail any poison referred to in Part I of Schedule A to any person unknown to him, unless the prospective purchaser is introduced to him by some person known to him and to the prospective purchaser. 1953, c. 79, s. 40.

Poison-book

**43.**—(1) A record of every sale of a poison referred to in Part I of Schedule A shall be entered in a poison-book kept by the seller for that purpose.

Information  
to be  
included in  
record

(2) The record of a sale shall include the following:

- 1. The date of the sale.
- 2. The name and address of the purchaser.
- 3. The name and quantity of the poison sold.
- 4. The purpose for which it is stated by the purchaser to be required.
- 5. Where the purchaser is unknown to the seller, the name of the person who introduced the purchaser.

Record to  
be signed

(3) When the seller has completed the record he shall cause the purchaser to sign it and shall sign it himself.

No delivery  
of poison  
until record  
completed

(4) The seller of any poison referred to in Part I of Schedule A shall not deliver it to the purchaser until a record of the sale has been completed in accordance with this section. 1953, c. 79, s. 41.



**44.** Sections 41, 42 and 43 do not apply to a poison when it forms part of the ingredients of any drug prescribed by a legally qualified medical practitioner, dentist or veterinary surgeon, if the name and address of the seller are legibly and conspicuously displayed on the outer surface of the container in which the drug is sold. 1953, c. 79, s. 42.

Application  
of ss. 41, 42,  
43

**45.** Subject to the regulations, no person or corporation shall sell by retail any drug referred to in Schedule C, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe. 1953, c. 79, s. 43.

Sale of  
drugs in  
Sched. C on  
prescription

**46.** No person or corporation shall sell by retail,  
(a) any drug referred to in Part I of Schedule D except on a written prescription signed by the prescriber;  
or

Sale of drugs  
in Sched. D  
on prescrip-  
tion

(b) any drug referred to in Part II of Schedule D except on prescription given in such form, in such manner and under such conditions as the regulations prescribe. 1953, c. 79, s. 44.

**47.** Every person who fills a prescription shall mark the prescription with an identification number or other designation which shall also be marked on the container in which the drug is supplied. 1953, c. 79, s. 45.

Identifica-  
tion mark-  
ings

**48.** Every person who presents a written prescription to a pharmaceutical chemist to be filled, unless otherwise directed by the prescriber, is entitled to have a copy of it furnished to him by the pharmaceutical chemist, but the original prescription shall be retained by the pharmaceutical chemist. 1953, c. 79, s. 46.

Purchaser  
entitled to  
copy of  
prescription

**49.** No person or corporation shall give away any drug referred to in Schedule D except to a legally qualified medical practitioner, dentist or veterinary surgeon. 1953, c. 79, s. 47.

Prohibition  
to give away  
certain drugs

**50.** Every pharmaceutical chemist shall keep a record of every purchase or sale made by him of a drug referred to in Part I of Schedule D and showing the date and quantity of the purchase or sale, the name of the person from whom it was purchased or to whom it was sold and the name of the person upon whose prescription it was sold. 1953, c. 79, s. 48.

Record of  
drugs to  
be kept by  
pharmaceuti-  
cal chemist

**51.—(1)** The Minister may require any legally qualified medical practitioner, dentist, veterinary surgeon or pharmaceutical chemist to report from time to time to him or to the College the quantity of any drug referred to in Schedule D that he has purchased, sold or prescribed during any period.

Reports to  
Minister

Reports by  
registrar to  
Minister

(2) The Minister may require the registrar to report from time to time to him any information in the possession of the registrar with respect to any drug referred to in Schedule D.

Report by  
Minister to  
disciplinary  
body

(3) Where it appears to the Minister that a legally qualified medical practitioner, dentist, veterinary surgeon or pharmaceutical chemist has sold or prescribed an excessive, unreasonable or improper amount of any drug referred to in Schedule D or has failed to make a complete report under subsection 1, the Minister may report such matter to the disciplinary body of The College of Physicians and Surgeons of Ontario, The Royal College of Dental Surgeons of Ontario, The Ontario Veterinary Association or The Ontario College of Pharmacy, as the case may be.

Power to  
discipline

(4) Any such disciplinary body upon receiving a report from the Minister may inquire into the matter and reprimand, or suspend or cancel the licence or certificate to practise of a member of any such college or association whom it finds to have purchased, sold or prescribed an excessive, unreasonable or improper amount of any drug referred to in Schedule D.

Hearing

(5) Before the disciplinary body reprimands or suspends or cancels a licence or certificate, it shall afford the person against whom the complaint has been made an opportunity of appearing before it and of presenting such evidence and making such representations as he desires and all evidence shall be taken down in writing.

Power of  
disciplinary  
body

(6) The disciplinary body has in respect of a hearing under this section the same powers as may be conferred upon a commissioner under *The Public Inquiries Act*.

R.S.O. 1960,  
c. 323

Appeal

(7) Any person who has been reprimanded or whose licence or certificate has been suspended or cancelled may, within fifteen days after receipt of notice in writing of the decision of the disciplinary body, appeal to the Court of Appeal from such decision and the practice and procedure in such appeal shall be the same as upon an appeal from a judgment of a Supreme Court judge presiding at a trial.

No action  
against  
disciplinary  
body

(8) No action shall be brought against any such disciplinary body or any member thereof for anything done in good faith under this section. 1953, c. 79, s. 49.

Regulations

**52.** The Lieutenant Governor in Council may make regulations,

- (a) adding any substance or preparation containing such substance or deleting any substance or preparation containing such substance from the lists of substances and preparations containing such substances

in the Schedules to this Act, or striking out any list and substituting another list therefor;

- (b) prescribing the percentage of any substance to be contained in any preparation referred to in any Schedule;
- (c) prescribing the types of containers to be used for containing any poison or drug and the designs, specifications and labelling therefor;
- (d) prescribing the manner in which prescriptions shall be given in respect of the drugs referred to in Schedule C or in Part II of Schedule D and the conditions under which such prescriptions may be given;
- (e) authorizing the refilling of prescriptions without further prescription and prescribing the conditions under which prescriptions may be refilled without further prescription;
- (f) designating poisons that may be sold by persons not otherwise authorized under this Act and authorizing the sale of such poisons by any persons or classes of persons not otherwise authorized under this Act and prescribing the conditions under which such poisons shall be sold by such persons or classes of persons;
- (g) designating drugs referred to in Schedule C that may be sold to owners of animals or birds for the treatment of such animals or birds by persons not otherwise authorized under this Act and authorizing the sale without prescription of such drugs to owners of animals or birds for the treatment of such animals or birds by any persons or classes of persons not otherwise authorized under this Act and prescribing the conditions under which such drugs shall be sold by such persons or classes of persons;
- (h) prescribing forms and providing for their use. 1953, c. 79, s. 50.

### PART III

#### OFFENCES

**53.** Where any person or corporation operates a pharmacy contrary to this Act or the regulations, the owner and manager of such pharmacy or either of them may be proceeded against, and prosecution or conviction of either of them is not a bar to prosecution or conviction of the other. 1953, c. 79, s. 51.

Proceedings  
against  
owner or  
manager



Liability of  
owner or  
manager for  
offences of  
employees

**54.** Every owner or manager of a pharmacy is liable for every offence against this Act committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied. 1953, c. 79, s. 52.

Onus of  
proof of  
registration

**55.** In any prosecution under this Act the onus is on the person charged to prove that he or any other person is registered and holds a certificate under this Act. 1953, c. 79, s. 53.

Recovery of  
charges

**56.** A person who sells any drug or poison in contravention of this Act or the regulations is not entitled to recover any charges in respect thereof. 1953, c. 79, s. 54.

Action for  
malpractice

**57.** No action shall be brought against a pharmaceutical chemist for negligence or malpractice in the rendering of professional services unless the action is commenced within six months from the date the professional services were rendered. 1953, c. 79, s. 55.

Misrepresentation

**58.** No person shall knowingly sell any poison or drug under the representation or pretence that it is a particular poison or drug that it is not, or contains any substance that it does not. 1953, c. 79, s. 56.

Offences re  
drugs in  
Sched. D

**59.—(1)** Every person who, contrary to this Act or the regulations,

(a) sells, offers for sale or keeps for sale, by retail; or

(b) dispenses or compounds; or

(c) fails to keep records as required by this Act or the regulations in respect of the sale of,

any drug referred to in Schedule D is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$50 and not more than \$500 and for each subsequent offence to a fine of not less than \$100 and not more than \$500. 1953, c. 79, s. 57 (1); 1960, c. 82, s. 5 (1).

Offences  
re drugs  
other than  
drugs in  
Sched. D

(2) Every person who, contrary to this Act or the regulations,

(a) sells, offers for sale or keeps for sale, by retail; or

(b) dispenses or compounds; or

(c) fails to keep records as required by this Act or the regulations in respect of the sale of,

any drug, other than a drug referred to in Schedule D, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$50 and not more

than \$500 and for each subsequent offence to a fine of not less than \$100 and not more than \$1,000. 1953, c. 79, s. 57 (2); 1960, c. 82, s. 5 (2).

**60.** Except as otherwise provided in section 59, every <sup>Offence,</sup> ~~general~~ person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$250. 1953, c. 79, s. 58; 1960, c. 82, s. 6.

**61.** All fines recovered for offences against this Act or the regulations shall be paid to the registrar for the use of the <sup>Disposition</sup> ~~of fines~~ College. 1953, c. 79, s. 59.

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## SCHEDULE A

### PART I

Aconite

Arsenic and preparations (except when combined with other ingredients in individual dosage forms)

Atropine and any salt thereof

Belladonna and preparations (except when combined with other ingredients in individual dosage forms)

Cantharides

Croton Oil

Hydrocyanic Acid and any salt thereof

Hyoscyamine and any salt thereof

Hyoscine and any salt thereof

Mercury, Ammoniated

Mercuric Chloride (Corrosive Sublimate)

Mercuric Cyanide

Mercuric Iodide

Mercuric Oxide

Nux Vomica and preparations (except when combined with other ingredients in individual dosage forms)

Oil of Bitter Almonds

Oil of Pennyroyal

Oil of Rue

Oil of Tansy

Oil of Savin

Phenol, pure, or of greater strength than 5%, but not crude carbolic

Picrotoxin

Potassium Antimony Tartrate (Tartar Emetic)

Potassium Cyanide and all other cyanides

Potassium Permanganate

Santonin

Sodium Antimony Tartrate (Tartar Emetic)

Strophanthus

Strychnine and any salt thereof (except when combined with other ingredients in individual dosage forms)

## PART II

Acetanilide	Hyoscyamus
Acid Acetic (33% or stronger)	Iodoform
Acid Chromic	Iodine
Acid Hydrochloric	Lead Salts
Acid Nitric	Mercury
Acid Sulphuric	Mercury and Chalk
Acid Oxalic	Mercurous Chloride
Acid Picric (Trinitrophenol)	Oil of Cedar
Amyl Nitrite	Oil of Chenopodium
Barium Chloride	Oil of Wintergreen and Methyl
Barium Sulphide	Salicylate
Belladonna, when combined with other ingredients	Phenol (crude)
Benzol	Phosphorus in free state
Bromform	Podophyllin
Bromides and compounds	Potassium Bichromate
Chloroform	Potassium Hydroxide
Chloralamide	Potassium Iodide
Colchicum	Potassium Nitrite
Cotton Root	Sabadilla Seeds
Carbon Bisulphide	Silver Nitrite
Cresol and its homologues	Sodium Fluoride
Creosote	Sodium Hydroxide
Copper Sulphate	Sodium Nitrite
Derris Powder	Stramonium
Digitalis and derivatives	Stavesacre
Ether	Sulphonal
Formaldehyde (Formalin)	Trional
Goulard's Extract	Thallium Salts
Goulard's Lotion	Tobacco Extract
Hellebore	Zinc Salts

1953, c. 79, Sched. A.

## SCHEDULE B

Acetylsalicylic Acid (in sealed packages) whether described as aspirin, acetophen, or any other trade name, mark or description	Essence of Peppermint
Alum	Ferrous Sulphate (Copperas)
Ammonium Chloride	Glauber Salts (Sodium Sulphate)
Aromatic Cascara	Glycerin
Arrowroot	Hydrogen Peroxide, not more than 3%
Beef, Iron & Wine	Iodine, tincture or solution, not more than 2½%
Bicarbonate of Soda	Linseed, whole or ground
Boracic Acid	Magnesium Hydroxide
Borax	Magnesium Carbonate
Calamine Lotion	Magnesium Citrate
Camphor Gum	Magnesium Sulphate (Epsom Salts)
Camphorated Chalk	Mineral or Paraffin Oil
Camphorated Oil	Olive Oil
Carbonate of Soda	Oil of Eucalyptus
Carbonate of Magnesia	Petroleum Jelly
Castor Oil	Potassium Nitrate (Salt Petre)
Chlorinated Lime	Rochelle Salts (Sodium and Potassium Tartrate)
Chloride of Lime	Rhubarb Root
Cochineal	Saccharine Tablets
Cod Liver Oil	Seidlitz Powders
Copper Sulphate (Blue Stone)	Senna
Cream of Tartar (Potassium acid tartrate)	Spirits of Aromatic Ammonia
Disodium-dibrom-oxymercuri-fluorescin, whether described as "Mercurochrome" or any other trade name, mark or description —not more than 2%	Solution of Ammonia
Epsom Salts	Sodium Chloride
	Sodium Phosphate
	Spirits of Nitrous Ether
	Spirits of Camphor
	Sulphur
	Turpentine

1953, c. 79, Sched. B.



## SCHEDULE C

Adrenocorticotrophic Hormone, ACTH  
Aminopyrine and any salt, homologue, or derivative thereof  
Apiol and preparations and compounds  
Aureomycin and any salt or derivative thereof  
Chloral Hydrate  
Chloramphenicol  
Cinchophen and Neocinchophen  
Cortisone and any salt thereof  
Dihydrostreptomycin and any compound thereof  
Dilantin Sodium (Sodium 5, 5-diphenyl-hydantoinate, sodium 2, 4 dikete-5, 5-diphenyl-tetra-hydroglycxalinelthe mono-sodium sale of 5, 5 diphenyl-hydantoin)  
Ergot and preparations and compounds  
2, 4-dinitrophenol and any compound, homologue, or derivative thereof  
Methamphetamine and any salt thereof  
Ortho-dinitrophenol, and any compound, homologue, or derivative thereof  
Penicillin, its salts or derivatives, or preparations thereof, excluding preparations for oral use that contain not more than 3,000 International Units per dose  
Phenytoin Sodium  
Selenium and any compound thereof  
Streptomycin and any compound thereof  
Sulphonamides and any salt, homologue, or derivative thereof  
Terramycin and any compound thereof  
Tetraethylthiuram disulphide  
Thiouracil and any homologue, or derivative thereof  
Thyroid  
Thyroxin and any salt thereof  
Urethane  
Hydrocortisone and any salt thereof  
Iproniazid  
Isoniazid  
Polymyxin B sulphate for internal and parenteral use

1953, c. 79, Sched. C.

## SCHEDULE D

## PART I

Barbituric Acid and any salt, homologue, or derivative thereof  
Beta-Amino propylbenzene (alpha-methyl-pheno-thylamine, benzyl-methylcarbinamine, racemic desoxynor-ephedrine) and any salt thereof including isomyl, amphetamine, benzedrine, dexedrine, and any salt thereof including inhalers  
Paraldehyde

## PART II

Barbituric Acid and derivatives or chemical combinations when combined with other medicinal ingredients and not exceeding one-quarter of one grain of barbituric acid or the said derivatives or combinations and not less than the amount set by the British Pharmacopoeia as a minimum dose of one of the other medicinal ingredients in each maximum dose of the combination and when the combination contains less than one-quarter of one grain of barbituric acid or the said derivatives or combinations in a maximum dose of the combination the minimum dose of such ingredient may be reduced in proportion to the reduction in the above drug.

1953, c. 79, Sched. D.



## CHAPTER 296

**The Planning Act****1. In this Act,**Interpre-  
tation

- (a) “council” means the council of a municipality or the board of trustees of an improvement district;
- (b) “designated municipality” means the municipality named by the Minister under subsection 6 of section 2 in the case of a joint planning area or the municipality in the case of a planning area consisting of one municipality or of one municipality and territory without municipal organization;
- (c) “joint planning area” means a planning area consisting of more than one municipality or part or parts thereof;
- (d) “local board” means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;
- (e) “Minister” means the Minister of Municipal Affairs;
- (f) “Municipal Board” means the Ontario Municipal Board;
- (g) “municipality” means a city, town, village, township or improvement district;
- (h) “official plan” means a programme and policy, or any part thereof, covering a planning area or any part thereof, designed to secure the health, safety, convenience or welfare of the inhabitants of the area, and consisting of the texts and maps, describing such programme and policy, approved by the Minister from time to time as provided in this Act;
- (i) “planning area” means a planning area defined by the Minister under this Act, and includes a joint planning area and a subsidiary planning area;



- (j) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of a council or of a local board. 1955, c. 61, s. 1; 1960, c. 83, s. 1.

## PART I

### OFFICIAL PLANS

Establish-  
ment of  
planning  
areas

**2.—(1)** The Minister, upon the application of the council of a municipality or the councils of two or more municipalities, or upon his own initiative where in his opinion it is in the interest of any area, may define and name a planning area.

Constitution  
of area

(2) The planning area shall consist of part or all of one municipality or of such municipalities or parts of municipalities as in the opinion of the Minister constitute a complete planning unit having regard to the purposes for which the planning area is defined, and the Minister may include in the planning area any territory without municipal organization that adjoins a municipality or part of a municipality included in the planning area.

Planning  
area in  
unorganized  
territory

(3) The Minister may define and name a planning area consisting of territory without municipal organization and may appoint a planning board for the planning area.

Subsidiary  
planning  
areas

(4) The Minister, upon the application of the council of a municipality or the councils of two or more municipalities, or upon his own initiative where in his opinion it is in the interest of any area, may define and name a subsidiary planning area consisting in whole or in part of land that is within one or more planning areas, and may define the scope and general purpose of the official plan of the subsidiary planning area and the functions of the planning board thereof. 1955, c. 61, s. 2 (1-4).

Planning  
area  
included  
in joint  
planning  
area to be  
subsidiary  
planning  
area

(5) When a planning area, other than a joint planning area, or any part thereof is included in a joint planning area, the planning area or part thereof so included is thereby a subsidiary planning area. 1957, c. 92, s. 1.

Designated  
municipality

(6) In the case of a joint planning area, the Minister shall name the municipality that shall be the designated municipality for the purposes of this Part, and may define the scope and general purpose of the official plan of the planning area and the functions of the planning board thereof.

Matters  
to be  
regarded

(7) In defining the scope and general purpose of an official plan, the Minister shall have regard among other matters to the requirements of the planning area for drainage, land uses, communications and public services.

(8) The Minister may dissolve or alter the boundaries of a planning area, but where an official plan is in effect in the planning area it remains in effect, notwithstanding the dissolution or alteration, until altered in accordance with this Part. 1955, c. 61, s. 2 (5-7).

**3.**—(1) The council of the designated municipality shall appoint the planning board of a planning area, and every appointment to the planning board of a joint planning area is subject to the approval of the Minister.

(2) Where a planning area consists of part or all of one municipality and territory without municipal organization, every appointment to the planning board of the planning area is subject to the approval of the Minister. 1955, c. 61, s. 3.

**4.**—(1) A planning board is a body corporate by the name of "..... Board" (inserting the name designated by the Minister) and shall consist of,

- (a) where the planning area consists of part or all of one municipality or of part or all of one municipality and territory without municipal organization, the head of the council of the municipality as a member *ex officio*; or
- (b) in the case of a joint planning area, the head of the council of the designated municipality as a member *ex officio*,

and four, six or eight members who are not employees of a municipality or of a local board. 1955, c. 61, s. 4 (1).

(2) In subsection 1, "employees" does not include teachers employed by a board of education or school board. c. 64, s. 1.

(3) The members of a planning board who are members of a municipal council shall not constitute a majority of the members of the planning board.

(4) The head of a council who is *ex officio* a member of the planning board, with the approval of the council, may appoint a substitute, who is a member of the council, to act for him from time to time.

(5) The members of the planning board who are not members of a municipal council shall hold office for three years, provided that on the first appointment the council of the designated municipality, from among such members, shall designate members who shall hold office,

- (a) until the 1st day of January of the year following the date of appointment;

(b) until the 1st day of January of the second year following the date of appointment; and

(c) until the 1st day of January of the third year following the date of appointment,

respectively, so that as nearly as possible one-third of such members shall retire each year; and the members of the planning board who are members of a council shall be appointed annually.

Re-  
appointment

(6) The members of the planning board shall hold office until their successors are appointed and such appointments are approved, where approval thereof is required, and are eligible for re-appointment.

Vacancies

(7) Where a member ceases to be a member of the planning board before the expiration of his term, the council of the designated municipality shall appoint another eligible person for the unexpired portion of the term.

Quorum

(8) A majority of the members of a planning board constitutes a quorum.

Officers

(9) The planning board shall elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

Secretary-  
treasurer,  
employees,  
consultants

(10) The planning board shall appoint a secretary-treasurer, who may be a member of the planning board, and may engage such employees and consultants as is deemed expedient. 1955, c. 61, s. 4 (2-9).

Special  
provisions

**5.** Notwithstanding any other provision in this Act, the Minister may, in order to suit the special needs of any planning area, vary the constitution of the planning board, the procedures by which it is appointed, the term of office of its members, and the manner in which it is to function, and designate the functions of the planning board within the scope of section 10, and may make special provisions relating to the recommendation, adoption and approval of the official plan of the planning area. 1955, c. 61, s. 5.

Execution  
of docu-  
ments

**6.** The execution of documents by the planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the planning board. 1955, c. 61, s. 6.

Finances

**7.—(1)** Where a planning area consists of part or all of one municipality or of part or all of one municipality and territory without municipal organization, the planning board shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may



amend such estimate and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time.

(2) In the case of a joint planning area, the planning board shall submit its estimates to the council of each municipality included in the planning area, and shall submit with the estimates a statement as to the proportion thereof to be chargeable to each of the municipalities. Estimates

(3) If the estimates are approved, or are amended and approved, by the councils of municipalities in the planning area representing more than one-half of the population of the planning area, the estimates are binding on all the municipalities in the planning area. Approval

(4) After the estimates have been approved as provided in subsection 3, the planning board shall so notify each municipality in the planning area, and shall notify each municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection 2. Notice

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection 4, notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Municipal Board. Where apportionment unsatisfactory

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final. Power of Municipal Board

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection 4 or by the Municipal Board under subsection 6, as the case may be. 1955, c. 61, s. 7 (1-7). Payments

(8) Where all of the municipalities that form a county for municipal purposes or a majority of the municipalities in a county that form part of the county for municipal purposes are included in one planning area, the Minister may authorize the council of the county to act on behalf of such municipalities for the purposes of this section. 1957, c. 92, s. 2. County acting on behalf of municipalities

(9) Where a county is chargeable under subsection 8, it shall recover its payments as part of the county rates from the municipalities on behalf of which it acts in the manner provided in section 98 of *The Assessment Act*. 1955, c. 61, s. 7 (9). Recovery by county  
R.S.O. 1960, c. 23

Grants,  
municipal  
county

**8.—**(1) Any municipality within or partly within a planning area may make grants of money to the planning board.

(2) The county in which a planning area or part thereof is situate may make grants of money to the planning board. 1955, c. 61, s. 8.

Audit of  
planning  
board's  
accounts  
R.S.O. 1960,  
c. 249

**9.** Notwithstanding subsection 2 of section 228 of *The Municipal Act*, in the case of a joint planning area the accounts and transactions of the planning board shall be audited by an auditor of the designated municipality. 1955, c. 61, s. 9.

Duties of  
planning  
boards

**10.—**(1) Every planning board shall investigate and survey the physical, social and economic conditions in relation to the development of the planning area and may perform such other duties of a planning nature as may be referred to it by any council having jurisdiction in the planning area, and without limiting the generality of the foregoing it shall,

- (a) prepare maps, drawings, texts, statistical information and all other material necessary for the study, explanation and solution of problems or matters affecting the development of the planning area;
- (b) hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of the planning area in determining the solution of problems or matters affecting the development of the planning area;
- (c) consult with any local board having jurisdiction within the planning area;
- (d) prepare a plan for the planning area suitable for adoption as the official plan thereof and forward it to the councils of the municipalities affected thereby, and recommend such plan to the council of the designated municipality for adoption;
- (e) recommend from time to time to the councils of the municipalities in the planning area the implementation of any of the features of the official plan of the planning area;
- (f) review the official plan from time to time and recommend amendments thereto to the council of the designated municipality for adoption.

Recommen-  
dation of  
plan

(2) No plan shall be recommended for adoption unless it is approved by a vote of the majority of all the members of the planning board. 1955, c. 61, s. 10.

**11.—**(1) The plan as finally prepared and recommended by the planning board shall be submitted to the council of the designated municipality. 1955, c. 61, s. 11 (1). Plan to be submitted to council

(2) The council of the designated municipality may adopt the plan by by-law. 1959, c. 71, s. 1 (1). Adoption of plan

(3) In the case of a joint planning area, the council of any other municipality within or partly within the planning area may adopt the plan by by-law, Adoption by other municipality

(a) after the expiration of ninety days from the day that the plan was recommended to the council of the designated municipality by the planning board, if the council of the designated municipality has not in the meantime adopted the plan; or

(b) within such period of ninety days if the council of the designated municipality by resolution consents thereto. 1955, c. 61, s. 11 (3); 1959, c. 71, s. 1 (2).

**12.—**(1) Upon adoption, the plan shall be submitted by the council that adopted it to the Minister who may refer the plan to any department of the public service of Ontario that may be concerned therewith and to The Hydro-Electric Power Commission of Ontario, and, in the case of a joint planning area, the Minister shall refer the plan to the council of every municipality in the planning area that the Minister considers is affected by the plan, and if modifications appear desirable, the Minister shall settle such modifications as far as possible to the satisfaction of all concerned and cause the plan to be amended accordingly. Plan to be submitted to Minister

(2) The Minister may then approve the plan, whereupon it is the official plan of the planning area. 1955, c. 61, s. 12. Approval by Minister

**13.—**(1) At least two, or as many as may be required, certified copies of the official plan shall be lodged by the planning board in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister within the planning area, and the copies shall be available at such places for public inspection during office hours. Lodging of official plan

(2) A duplicate original of the official plan shall be lodged by the planning board in every registry office of lands within the planning area, where it shall be made available to the public as a production. 1955, c. 61, s. 13. Idem

**14.—**(1) The provisions of this Act with respect to an official plan apply *mutatis mutandis* to amendments thereto, provided that the Minister may, subject to subsection 2, Amendments



approve any amendment that may be proposed by the council of any municipality.

Conditions  
for  
Minister's  
approval

(2) Before approving an amendment initiated by a council, the Minister may require that a report of the planning board be obtained in respect of the proposal and if the planning board does not concur in the proposal the Minister shall not approve the amendment unless it has been adopted by a vote of two-thirds of all the members of the council.

Application  
for  
amendment

(3) Where any person requests the council to initiate an amendment to the official plan and the council,

(a) refuses to propose the amendment; or

(b) fails to propose the amendment within thirty days from the receipt of the request,

such person may request the Minister to refer the proposal to the Municipal Board.

Reference to  
Municipal  
Board

(4) Upon receipt of the request, the Minister may require a report on the proposal from the planning board and may refer the proposal to any public authority that may be concerned therewith and he may refuse the request or refer the proposal to the Municipal Board.

Disposal of  
reference

(5) When a proposal is referred to the Municipal Board under subsection 4, the Municipal Board may reject the proposal or direct that the council cause the amendment to be made in the manner provided in the order. 1955, c. 61, s. 14.

Public works  
and by-laws  
to conform  
with plan

**15.**—(1) Notwithstanding any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections 2 and 3, no by-law shall be passed for any purpose that does not conform therewith.

Validity of  
by-laws  
conforming  
to amend-  
ments to  
official plans

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and such by-law shall be deemed to be valid and to have come into force on the day it was passed if the Minister approves the amendment to the official plan and if the Municipal Board subsequently approves the by-law, where such approval of the by-law is required.

Municipal  
Board may  
approve  
by-law

(3) The Municipal Board, upon the application of the council of a municipality for which an official plan is in effect, may by its order declare that a by-law of such municipality shall be deemed to conform with the official plan, if the Municipal Board is of opinion that the by-law conforms with the general intent and purpose of the official plan.

(4) The procedure upon an application to the Municipal <sup>Procedure</sup> Board under subsection 3 shall be the same as nearly as may be as in the case of an application to the Municipal Board under section 30. 1955, c. 61, s. 15.

**16.** A by-law that conforms with an official plan shall be <sup>By-laws implement-  
ing plans</sup> deemed to implement the official plan whether the by-law is passed before or after the official plan is approved. 1955, c. 61, s. 16.

**17.—(1)** If a municipality has an official plan that has <sup>Establish-  
ment of  
committees  
of adjust-  
ment</sup> been implemented by one or more by-laws of the municipality, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality or part, composed of such persons, not less than three, as the council deems advisable.

(2) In subsection 3, employee does not include a teacher <sup>Interpre-  
tation</sup> employed by a board of education or school board.

(3) Every appointment to a committee of adjustment is <sup>Appoint-  
ments  
subject to  
approval</sup> subject to the approval of the Minister, but in no event is a member of the council of the municipality or an employee of the municipality or of a local board thereof eligible for appointment.

(4) Appointments to the committee shall be for a term of <sup>Term of  
office</sup> three years, except that on the first appointment the council shall designate members who shall hold office,

- (a) until the 1st day of January of the year following the date of appointment;
- (b) until the 1st day of January of the second year following the date of appointment; and
- (c) until the 1st day of January of the third year following the date of appointment,

respectively, so that as nearly as possible one-third of the members shall retire each year.

(5) Members of the committee shall hold office until their <sup>Idem</sup> successors are appointed and approved, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council, with the approval of the Minister, shall appoint another eligible person for the unexpired portion of the term.

(6) A majority of the members of the committee constitutes <sup>Quorum</sup> a quorum.

Vacancy not  
to impair  
powers

(7) Subject to subsection 6, a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

Chairman

(8) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent, through illness or otherwise, the committee may appoint another member to act as chairman *pro tempore*.

Employees

(9) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is deemed expedient, within the limits of the moneys appropriated for the purpose.

Remunera-  
tion

(10) The members of the committee shall be paid such compensation as the council may provide.

Filing of  
documents,  
etc.

(11) The secretary-treasurer shall keep on file in his office minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 216 of *The Municipal Act* applies *mutatis mutandis* to such documents.

R.S.O. 1960,  
c. 249

Rules of  
procedure

(12) The committee shall adopt such rules of procedure as are approved by the Minister and no committee shall hear or determine any matter unless such rules have heretofore been or are hereafter so adopted and approved and such rules may be amended with the approval of the Minister.

Revision of  
rules of  
procedure

(13) The Minister may require a committee to amend or revise its rules of procedure and, if the committee fails to comply with such requirement within the time limited by the Minister, it is without jurisdiction to hear or determine any matter until its rules are amended or revised as approved by the Minister. 1959, c. 71, s. 2 (1).

Powers of  
committee,  
general

**18.—**(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that implements an official plan, may, notwithstanding any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan is maintained.

special

(2) In addition to its powers under subsection 1, the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was used for a purpose pro-



hibited by the by-law and such use has continued until the date of the application to the committee, may permit,

- (i) the enlargement or extension of the building or structure, provided that the land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day the by-law was passed, and provided that no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or
  - (ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the land, building or structure continues to be used in the same manner and for the same purpose as is authorized by the decision of the committee;
- (b) where the land, building or structure adjoins any area in which the permitted uses differ from those permitted in the area in which it is situate, may permit the extension or enlargement, into the adjoining area, of the land, building or structure to such an extent as, in the opinion of the committee, is in keeping with the general intent and purpose of the by-law and of the official plan; or
- (c) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

(3) The hearing on any application shall be held within <sup>Time for</sup> thirty days after the application is received by the secretary-<sup>hearing</sup> treasurer.

(4) The committee, before hearing an application, shall <sup>Notice of</sup> give notice thereof in such manner and to such persons as the <sup>hearing</sup> committee deems proper.

(5) The committee may require that a fee of not more than <sup>Fees</sup> \$25 be paid on every application.

- Hearing (6) The hearing of every application shall be held in public and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.
- Oaths (7) The chairman, or in his absence the acting chairman, may administer oaths. 1955, c. 61, s. 18 (1-7).
- Decision (8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision. 1955, c. 61, s. 18 (8); 1959, c. 71, s. 3.
- Conditions in decision (9) Any authority or permission granted by the committee may be for such time and subject to such terms and conditions as the committee may deem advisable and as are set out in the decision.
- Notice of decision (10) The secretary-treasurer shall send by registered mail,  
(a) two copies of the decision, certified by him, to the Minister; and  
(b) one copy of the decision, certified by him, to the applicant and to each person who appeared in person or by counsel at the hearing and filed with the secretary-treasurer a written request for notice of the decision,  
together with a notice of the last day for appealing to the Municipal Board.
- Additional material (11) The secretary-treasurer shall also send to the Minister, when he sends the notice under subsection 10, two copies of the following documents:
1. The application to the committee of adjustment, certified by the secretary-treasurer.
  2. The notice of the hearing by the committee of adjustment and a list of the persons to whom the notice was sent, both certified by the secretary-treasurer.
  3. The minutes of the hearing by the committee of adjustment, certified by the secretary-treasurer.
  4. List of persons to whom copies of the decision were sent under clause *b* of subsection 10, showing the date of sending, certified by the secretary-treasurer.

5. All relevant documents, including any maps or sketches showing the land, building or structure concerned.

(12) The applicant, the Minister, or any other person who <sup>Appeal</sup> has an interest in the matter may appeal to the Municipal Board against the decision of the committee by sending notice of appeal by registered mail to the secretary of the Municipal Board and, except where the appellant is the Minister, to the Minister, within fourteen days after the sending of the notice under subsection 10.

(13) If within such fourteen days no notice of appeal is <sup>Where no appeal</sup> given, the decision of the committee is final and binding, and the Minister shall notify the secretary-treasurer that no appeal has been taken and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality.

(14) On an appeal to the Municipal Board, the Municipal <sup>Hearing</sup> Board shall hold a hearing of which notice shall be given to the Minister, the applicant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine.

(15) The Municipal Board may dismiss the appeal, and <sup>Powers of Municipal Board</sup> may make any decision that the committee could have made on the original application.

(16) The costs on the appeal are in the discretion of the <sup>Costs</sup> Municipal Board.

(17) When the Municipal Board makes an order on an <sup>Notice of decision</sup> appeal, the secretary of the Municipal Board shall send a copy thereof to the Minister and to the secretary-treasurer of the committee.

(18) The secretary-treasurer shall send to the applicant a <sup>Idem</sup> copy of the order of the Municipal Board on the appeal and shall file a copy of the order with the clerk of the municipality. 1955, c. 61, s. 18 (9-18).

**19.—**(1) For the purpose of developing any feature of the <sup>Acquisition of lands for official plan purposes</sup> official plan, a municipality, with the approval of the Minister, may at any time and from time to time,

- (a) acquire land within the municipality;
- (b) hold land heretofore or hereafter acquired within the municipality; or
- (c) sell, lease or otherwise dispose of land so acquired or held when no longer required.



Powers of  
designated  
municipality

(2) For the purpose of developing any feature of the official plan, the designated municipality in the case of a joint planning area, with the approval of the Minister, may exercise any of the powers mentioned in subsection 1 in respect of land within the planning area.

Powers of  
county

(3) For the purpose of developing any feature of any official plan, a county, with the approval of the Minister, may exercise any of the powers mentioned in subsection 1 in respect of the land within the county.

Contribu-  
tions to cost

(4) Any county or municipality may contribute towards the cost of acquiring land under this section. 1955, c. 61, s. 19.

Interpre-  
tation

**20.—**(1) In this section,

- (a) "redevelopment" means the planning or replanning, design or redesign, resubdivision, clearance, development, reconstruction and rehabilitation, or any of them, of a redevelopment area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;
- (b) "redevelopment area" means an area within a municipality, the redevelopment of which in the opinion of the council is desirable because of age, dilapidation, over-crowding, faulty arrangement, unsuitability of buildings or for any other reason;
- (c) "redevelopment plan" means a general scheme, including supporting maps and texts, approved by the Municipal Board for the redevelopment of a redevelopment area.

Designation  
of redevelop-  
ment area

(2) The council of a municipality that has an official plan may, with the approval of the Minister, by by-law designate an area within the municipality as a redevelopment area and the redevelopment area shall not be altered or dissolved without the approval of the Minister.

Acquisition  
and  
clearance  
of land

(3) When a by-law has been passed and approved under subsection 2, the municipality, with the approval of the Minister, may,

- (a) acquire land within the redevelopment area;
- (b) hold land acquired before or after the passing of the by-law within the redevelopment area; and
- (c) clear, grade or otherwise prepare the land for redevelopment.

(4) If, at any time before a redevelopment plan for the <sup>withdrawal</sup> redevelopment area has been approved by the Municipal <sup>of Minister's</sup> Board, the Minister is not satisfied with the progress made by <sup>approvals</sup> the municipality in acquiring land within the redevelopment area or in preparing a redevelopment plan, he may withdraw his approvals under subsections 2. and 3 and thereupon the by-law designating the redevelopment area ceases to have effect and the redevelopment area ceases to exist.

(5) When a by-law has been passed and approved under subsection 2, the council, with the approval of the Municipal <sup>Adoption</sup> Board, may by by-law adopt a redevelopment plan for the <sup>of re-</sup> redevelopment area. <sup>develop-</sup> <sup>ment plan</sup>

(6) No redevelopment plan shall be approved by the Municipal Board unless it conforms with the official plan. <sup>Conformity</sup> <sup>to official</sup> <sup>plan</sup>

(7) A redevelopment plan adopted and approved under <sup>Amendment</sup> subsection 5 may be amended by by-law with the approval of the Municipal Board.

(8) For the purpose of carrying out the redevelopment plan, the municipality, with the approval of the Minister, may, <sup>Powers of</sup> <sup>council</sup> <sup>re land</sup>

(a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the redevelopment area in conformity with the redevelopment plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;

(b) sell, lease or otherwise dispose of any land acquired or held by it in the redevelopment area to any person or governmental authority for use in conformity with the redevelopment plan.

(9) Until a by-law or amending by-law passed under section 30 after the adoption of the redevelopment plan is in <sup>Conditions</sup> <sup>of sale,</sup> <sup>etc.</sup> force in the redevelopment area, no land acquired, and no building constructed, by the municipality in the redevelopment area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of agrees with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the redevelopment plan until such a by-law or amending by-law is in force; but the municipality may, with the approval of the Minister, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the redevelopment plan, for a term of not more than three years at any one time.

(10) Notwithstanding subsection 1 of section 282 of *The* <sup>Debentures</sup> *Municipal Act*, debentures issued by the municipality for the <sup>R.S.O. 1960,</sup> <sup>c. 249</sup> purpose of this section may be for such term of years as the

debenture by-law, with the approval of the Municipal Board, provides. 1955, c. 61, s. 20; 1960, c. 83, s. 2.

Agreements  
re special  
studies

**21.** A municipality, with the approval of the Minister, may enter into an agreement with any governmental authority, or any agency thereof created by statute, for the carrying out of studies relating to the physical condition of the municipality or any part thereof. 1960, c. 83, s. 3, *part*.

Agreements  
for grants  
in aid of  
redevelop-  
ment

**22.** The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the redevelopment of a redevelopment area as defined in section 20. 1960, c. 83, s. 3, *part*.

R.S.O. 1960,  
c. 249  
to apply

**23.** The provisions of *The Municipal Act* apply to the acquisition of land under this Act. 1955, c. 61, s. 21.

Power to  
clear, grade,  
etc., lands  
acquired

**24.** When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held. 1955, c. 61, s. 22.

Exchange  
of lands

**25.** When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality. 1955, c. 61, s. 23.

## PART II

### SUBDIVISIONS

Areas of  
subdivision  
control

**26.—(1)** The council of a municipality may by by-law designate any area within the municipality as an area of subdivision control, and thereafter no person shall convey land in the area by way of a deed or transfer on any sale, or enter into an agreement of sale and purchase of land in the area, or enter into any agreement that has the effect of granting the use of or right in land in the area directly or by entitlement to renewal for a period of twenty-one years or more, unless the land is described in accordance with and is within a registered plan of subdivision, and the council may, in the by-law, designate a registered plan of subdivision or part thereof which shall be deemed not to be a registered plan of subdivision for the purposes of this subsection.

Part lots

(2) The by-law may provide that where land is,  
(a) within a registered plan of subdivision; or



- (b) within a registered plan of subdivision, or a part thereof, designated in the by-law,

no person shall convey a part of any lot or block of the land by way of a deed or transfer on any sale, or enter into an agreement of sale and purchase of a part of any lot or block of the land, or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more; and when the by-law contains any such provision, no person shall contravene the provision.

(3) Nothing in subsection 1 or 2 prohibits any conveyance <sup>Exceptions</sup> or agreement respecting land,

- (a) if the land is ten acres or more in area and the remnant, if any, remaining in the grantor is also ten acres or more; or
- (b) if the land is the whole part remaining to the grantor of one parcel described in a registered conveyance to him; or
- (c) if the consent,
  - (i) of the planning board of the planning area in which the land lies, or
  - (ii) where the land lies in more than one planning area, of the planning board designated by the Minister from time to time, or
  - (iii) where there is no planning board, of the Minister,

is given to the conveyance or agreement.

(4) Two certified copies of the by-law shall be lodged in the office of the Minister where they shall be available for public <sup>Lodging of copies of by-law</sup> inspection during office hours, and the by-law shall be registered in the proper registry office where it shall be made available to the public as a production.

(5) Where a registered plan of subdivision or a part thereof <sup>Notice</sup> is deemed under the by-law not to be a registered plan of subdivision, the clerk of the municipality shall, within ten days after the by-law is passed, send notice of the passing of the by-law by mail to the last known address of each person appearing by the last revised assessment roll to be the owner of land within the plan of subdivision or part.

(6) Where the by-law contains provisions authorized by <sup>Idem</sup> subsection 2, the clerk of the municipality shall, within ten days after the by-law is passed, send notice of the passing of

the by-law by mail to the last known address of each person appearing by the last revised assessment roll to be the owner of land within any registered plan of subdivision, or within any part of a registered plan of subdivision, to which such provisions apply.

Alteration  
and dis-  
solution

(7) When an area is designated as an area of subdivision control, it shall not be altered or dissolved without the approval of the Minister.

Offence

(8) Every person who contravenes this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1955, c. 61, s. 24.

Power of  
Minister  
re zoning  
and sub-  
division  
control

**27.—**(1) The Minister may by order,

(a) with respect to any land in Ontario that is not within the scope of a by-law passed under section 30, or a predecessor of such section, exercise any of the powers conferred upon councils by section 30 without the approval of the Municipal Board; and

(b) with respect to any land in Ontario that is not within an area of subdivision control, exercise the powers conferred upon councils by section 26.

Limitation  
of zoning  
powers

(2) Where an official plan is in effect, the Minister shall not, with respect to land covered by the official plan, make an order under clause *a* of subsection 1 that does not conform with the official plan.

Notice

(3) The Minister may give notice of any such order in such manner as he deems expedient.

Revocation  
or amend-  
ment

(4) The Minister may, by order, revoke or amend any order made under subsection 1.

Offence

(5) Every person who contravenes an order of the Minister made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1955, c. 61, s. 25.

Application  
for approval  
of sub-  
division  
plans

**28.—**(1) When land is to be subdivided for the purpose of being sold, conveyed or leased in lots by reference to a registered plan of subdivision, the owner of the land or someone authorized by him in writing shall forward at least eight, or as many as may be required, copies of a draft plan thereof drawn to scale, together with an application for approval, to the Minister.

What draft  
plan to  
indicate

(2) The draft plan shall show the boundaries of the land to be subdivided, certified by an Ontario land surveyor, and shall indicate,

- (a) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;
- (b) on a small key plan, on a scale of not less than one inch to 1,000 feet, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which the applicant has an interest, and the information specified under clause *c*;
- (c) every adjoining subdivision and the relationship thereto of the lands proposed to be subdivided, and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;
- (d) the purpose for which the lots are to be used;
- (e) the nature of the existing uses of adjoining land;
- (f) the approximate dimensions and layouts of the proposed lots;
- (g) natural and artificial features such as buildings, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided, and anything within or adjacent to such land that constitutes a fire hazard to the proposed subdivision;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) such contours or elevations as may be required to determine the grade of the highways and the drainage of the land;
- (k) the municipal services available or to be available to the land proposed to be subdivided;
- (l) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided.

(3) The Minister may then confer with officials of municipalities and departments of the public service, commissions, authorities and any others who may be concerned and shall settle a draft plan that, in his opinion, will meet all requirements.

Minister  
to confer



What  
matters to  
be regarded

(4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the future inhabitants and to the following:

- (a) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (b) whether the proposed subdivision is premature or necessary in the public interest;
- (c) the suitability of the land for the purposes for which it is to be subdivided;
- (d) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity, and the adequacy thereof;
- (e) the dimensions and shape of the lots;
- (f) the restrictions or proposed restrictions, if any, on the land, buildings and structures proposed to be erected thereon and the restrictions, if any, on adjoining lands;
- (g) conservation of natural resources and flood control;
- (h) the adequacy of utilities and municipal services;
- (i) adequacy of school sites;
- (j) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes. 1955, c. 61, s. 26 (1-4).

Dedication  
of land  
for public  
and highway  
purposes

(5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are advisable and, in particular but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition,

- (a) that land to an amount determined by the Minister but not exceeding 5 per cent of the land included in the plan shall be conveyed to the municipality for public purposes other than highways or, if the land is not in a municipality, shall be dedicated for public purposes other than highways;
- (b) that such highways shall be dedicated as the Minister deems necessary;
- (c) when the subdivision abuts on an existing highway, that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister deems necessary; and

- (d) that the owner of the land enter into one or more agreements with the municipality dealing with such matters as the Minister may consider necessary, including the provision of municipal services. 1955, c. 61, s. 26 (5); 1959, c. 71, s. 4 (1).

(6) Every municipality may enter into agreements imposed as a condition to the approval of a plan of subdivision. Subdivision agreements

(7) Where the owner of the land or the municipality in which the land is situate is not satisfied as to the conditions imposed or to be imposed by the Minister or by the municipality, as the case may be, he or it may, at any time before the plan of subdivision is approved, require the matter to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister in which case the matter shall be deemed to be referred to the Board under section 34. 1959, c. 71, s. 4 (2). Reference

(8) Where the land is in a municipality and an official plan, indicating the amount and location of the land to be ultimately provided for public purposes, is in effect in the municipality, the Minister may authorize, in lieu of the conveyance for public purposes other than highways required under subsection 5, the payment to the municipality of a sum of money not exceeding the value of 5 per cent of the land included in the subdivision. Cash payment in lieu of conveyance

(9) Land conveyed to a municipality under subsection 5 shall be held and used by the municipality for public purposes, but may be sold with the approval of the Minister. Use and sale of land

(10) All moneys received by the municipality under subsection 8, and all moneys received on the sale of land under subsection 9, shall be paid into a special account and the moneys in such special account shall be expended only for the purchase, with the approval of the Minister, of land to be held and used by the municipality for public purposes, and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account. Special account

(11) Upon settlement of the draft plan, the Minister may give his approval thereto, and may in his discretion withdraw his approval or change the conditions of approval at any time prior to his approval of a final plan for registration. Approval of draft plan by Minister

(12) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with *The Surveys Act* and When draft plan approved R.S.O. 1960, c. 390, 348, 204.

*The Registry Act* or *The Surveys Act* and *The Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor.

Approval  
of plan  
by Minister

(13) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration.

Withdrawal  
of approval  
of plan for  
registration

(14) When a final plan for registration is approved by the Minister under subsection 13 and is not registered within one month of the date of approval, the Minister may withdraw his approval and may require that a new application be submitted.

Duplicates  
to be  
deposited  
and sent to  
Minister  
R.S.O. 1960,  
cc. 348, 204

(15) In addition to any requirement under *The Registry Act* or *The Land Titles Act*, the person tendering the plan of subdivision for registration shall deposit with the registrar or master of titles a duplicate, or when required by the Minister two duplicates, of the plan in the form of linen tracings or transparent linen prints of a type approved by the Minister, and the registrar or master shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister.

Saving

(16) Approval of a plan of subdivision by the Minister does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act. 1955, c. 61, s. 26 (6-14).

Offence  
re certain  
land sales

**29.** Every person who subdivides and offers for sale, agrees to sell or sells land by a description in accordance with an unregistered plan of subdivision is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1955, c. 61, s. 27.

### PART III

#### RESTRICTED AREA AND BUILDING BY-LAWS

Restricted  
area  
by-laws

**30.**—(1) By-laws may be passed by the councils of municipalities:

Restricting  
use of land

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.



2. For prohibiting the erection or use of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway. Restricting erection or use of buildings
  3. For prohibiting the erection of a building or structure for residential or commercial purposes on land that is subject to flooding or on land where, by reason of its rocky, low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive. Marshy lands
  4. For regulating the cost or type of construction and the height, bulk, location, size, floor area, spacing, external design, character and use of buildings or structures to be erected within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy. Construction of buildings and structures
  5. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway. Loading space
  6. For prohibiting the making or establishment of pits and quarries within the municipality or within any defined area or areas thereof. Pits and Quarries
- (2) Any by-law passed under this section may prohibit or regulate all or any of the matters mentioned in subsection 1. Scope of by-law
- (3) Where an official plan is in effect in a municipality or a part thereof, a by-law passed under this section may include a provision that no land, building or structure shall be used in the area covered by the by-law for such commercial or industrial purposes as are likely to create danger to health or danger from fire or explosion and as are specified in the by-law, without the approval in writing, Uses for hazardous purposes
- (a) of the committee of adjustment constituted under section 17; or
  - (b) where no such committee has been established, of the planning board,
- and, where a by-law includes such provision, the committee or board shall give one copy of its written decision upon any application for approval to the applicant and shall file one

copy with the clerk of the municipality, and, where the committee or board has refused to grant any such application, it shall, upon the request of the applicant, refer the matter to the Municipal Board, which Board may grant or refuse such approval and its decision is final and binding.

Certificates  
of occupancy

(4) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law.

Use of  
maps

(5) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

Acquisition  
and dis-  
position of  
non-con-  
forming  
lands

(6) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality.

Excepted  
lands and  
buildings

(7) No by-law passed under this section applies,

- (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or
- (b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure the plans for which have, prior to the day of the passing of the by-law, been approved by the municipal architect or building inspector, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the erection of such building or structure is commenced within two years after the day of the passing of the by-law and such building or structure is completed within a reasonable time after the erection thereof is commenced.

Restrictions  
on boundary  
highways

(8) Where the boundary between two local municipalities is a highway and the council of one only of the municipalities, as to lands abutting on the highway, has passed a by-law for any purpose mentioned in subsection 1 and, for three months

after request by the council of such municipality, the council of the other municipality neglects or fails to pass or to take effective proceedings to pass a corresponding by-law, the council of the first-mentioned municipality may apply to the Municipal Board for an order, which the Municipal Board has power to make, declaring that after a date to be named in the order the by-law of the first-mentioned municipality shall apply to the lands abutting on both sides of the boundary highway to the same extent in area for the same purpose and as fully and effectually as if all such abutting lands were described in the by-law and were within the first-mentioned municipality, and, if and when such order is made and becomes effective, the by-law shall be construed and may be enforced accordingly.

(9) No part of any by-law passed under this section comes into force without the approval of the Municipal Board, and such approval may be for a limited period of time only, and the Board may extend such period from time to time upon application made to it for such purpose. Approval by Municipal Board

(10) No part of any by-law that repeals or amends a by-law passed under this section or a predecessor of this section and approved by the Municipal Board comes into force without the approval of the Municipal Board. Repeal or amendment

(11) The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of its application to the Municipal Board for approval of any by-law passed under this section. Notice of application

(12) Where a by-law passed under this section applies to land abutting on the King's Highway or on a highway under the jurisdiction of a county council, the council that passed the by-law shall give to the Department of Highways or to the clerk of the county council, as the case may be, notice of its intention to apply to the Municipal Board for approval of the by-law. Notice of application when King's Highway or county highway affected

(13) Where a by-law passed under this section applies to land abutting on a boundary between the municipality that passed the by-law and another local municipality, the council that passed the by-law shall give, Notice of application when lands in adjoining municipality affected

(a) to the clerk of the other municipality;

(b) to the secretary of the planning board, if any, of the other municipality; and

(c) to each owner of land in the other municipality abutting on the land to which the by-law applies,

notice of its intention to apply to the Municipal Board for approval of the by-law.



Application  
to state  
whether  
official  
plan in  
effect

(14) Every application to the Municipal Board for approval of a by-law passed under this section shall state whether or not the land affected by the by-law is covered by an official plan.

Amendment  
of by-law  
pending  
approval

(15) Where, after an adjournment of the hearing of an application for approval of any by-law passed under this section and prior to the final hearing of the application, the by-law is amended, the Municipal Board may direct that notice of the application for approval of the amended by-law be given in such manner and to such persons as the Municipal Board may direct or may dispense with such notice, and may approve the amended by-law.

Extent of  
approval

(16) The Municipal Board may approve any such by-law in whole or in part and as to the whole or any part of any land, area or highway therein defined, and the Municipal Board may have regard to the restrictions on any land adjacent to such land, area or highway.

When  
approval  
effective

(17) Such approval does not become effective until the issue by the Municipal Board of its formal order thereof.

Extension or  
enlargement

(18) Notwithstanding any other provision of this section, any by-law passed under this section or a predecessor of this section or any by-law deemed to be consistent with this section by subsection 3 of section 13 of *The Municipal Amendment Act, 1941* may, with the approval of the Municipal Board, be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed.

1941, c. 35

Appeal

(19) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section, or any by-law deemed to be consistent with this section by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, is refused or the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order.

Copies of  
decision

(20) Where an application has been made to the Municipal Board for the approval of a by-law passed under this section, a copy of the decision of the Municipal Board with respect to the application shall be supplied by the Municipal Board to the applicant and to each person who appeared in person or by counsel at the hearing of the application and who filed

with the Municipal Board or the secretary of the Municipal Board a written request for notice of the decision. 1959, c. 71, s. 5, *part*.

**31.**—(1) By-laws may be passed by the councils of municipalities: Building  
by-laws

1. For regulating the size and strength of frame, wooden, brick, stone, cement and concrete walls, and of the foundations and foundation walls, beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees and for the issuing of a permit certifying to such approval without which permit no building or structure may be erected, altered or repaired, and for authorizing the refusal of a permit for any building or structure that if constructed would be contrary to the provisions of any by-law of the municipality. Size and  
strength of  
walls, etc.,  
and produc-  
tion of  
plans
2. For requiring the interior side of the exterior walls and the ceilings and both sides of the partition walls of buildings, or any class of buildings, to be lathed and plastered or otherwise covered with adequate material. Interior  
walls and  
ceilings
3. For authorizing the municipal architect or building inspector to permit, in special cases that in his judgment warrant it, such deviation as he may deem proper from the by-laws regulating the erection of buildings, except by-laws passed under section 30 or a predecessor of that section. Deviations  
from  
building  
by-laws
- (a) This paragraph applies only to municipalities where the municipal architect or building inspector, as the case may be, is a member or licensee of the Ontario Association of Architects under *The Architects Act* or a member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act*. Limited  
application  
of paragraph  
  
R.S.O. 1960,  
cc. 20, 309
4. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be deemed necessary for ascertaining such levels. Ascertaining  
levels of  
cellars, etc.
5. For fixing grade lines of streets; for providing that the levels of cellars and basements on such streets Establishing  
grades of  
streets and  
levels of  
basements

shall bear a relation, fixed in the by-law, to such lines; and for requiring that a ground or block plan of any proposed building be deposited with an officer named in the by-law, before the issue of a building permit for such building, showing the levels of the cellars and basements in relation to the grade lines fixed in the by-law.

Regulation;  
etc., of  
heating  
plant and  
equipment  
R.S.O. 1960,  
c. 37

6. For regulating, controlling and inspecting, subject to *The Boilers and Pressure Vessels Act*, all hot air, hot water and steam heating plants and equipment, or any classes thereof, and the installation thereof; and for requiring the production of plans of all installations of such plant and equipment and alterations or additions thereto, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for the issuing of a permit certifying to such approval and for requiring that without such permit no such plant and equipment may be installed, altered or added to.

Regulating  
removal and  
wrecking of  
buildings

7. For regulating the removing or wrecking of buildings, and the spraying thereof during such work so as to prevent dust or rubbish arising therefrom.

Doors of  
public  
buildings  
R.S.O. 1960,  
cc. 116, 396,  
130

8. For regulating, subject to the provisions of *The Egress from Public Buildings Act*, *The Theatres Act* and *The Factory, Shop and Office Building Act*,

- (a) the size and number of doors, aisles, halls and stairs in and other means of egress from hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement, or for public meetings, and the street gates leading to them;
- (b) the construction and width of stairways in such buildings, and in factories, warehouses, hotels, boarding and lodging houses;
- (c) the materials of which and the manner in which stairs and stair-railings shall be constructed, and the strength of walls, beams and joists and their supports in all such buildings; and
- (d) for requiring the production of the plans of the buildings mentioned in this paragraph now erected or which it is proposed to erect, and for prohibiting the use or erection of them until the provisions of the by-law are com-



plied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

9. For prohibiting and preventing the obstruction by persons or things of the halls, aisles, passage-ways, alleys or approaches in or leading to any such building during the occupation of it by a public assemblage. Obstruction of halls, aisles, etc.
- (a) While any building mentioned in clause *a* of paragraph 8 in a city or town is occupied by a public assemblage, the chief constable or any constable of the city or town may enter it to see that the by-law is not being contravened, and may require the removal of any obstruction or of any person standing, sitting or otherwise occupying any hall, aisle, passage-way, alley or approach, except for passing to and fro. Powers of police officers as to seeing that by-laws enforced
10. For requiring every owner of land upon which there is erected a building used or intended to be used for commercial purposes to keep in repair any portion of his land lying between the building and the street line that is used by the public as part of the sidewalk on such street. Owner's duty to repair land in front of commercial buildings
11. Subject to the provisions of any other Act requiring fire escapes, for compelling the owners and occupants of buildings more than two storeys in height, except private dwellings, to provide proper fire escapes therefor in such places, of such pattern and mode of construction as may be deemed proper, and for prohibiting the occupation of any such buildings unless such fire escapes are provided. Compelling provision of fire escapes
12. For regulating the construction, alteration or repairs of buildings. Erection of buildings, etc.
13. For prohibiting the erection or placing, within defined area, of buildings or additions to them without foundations and foundation walls or with external and party walls other than of brick, portland cement, concrete, steel, stone, tile, terracotta or other incombustible material or of one or more of such materials or other than partly of one or more of such materials and partly of other materials as the by-law may prescribe and also prohibiting roofing of other than incombustible material; provided, however, that such by-laws may allow, in defined areas, buildings for prescribed purposes to be erected or placed not exceeding a prescribed size or height Kind of walls

having walls of other than such materials or partly of one or more thereof and partly of other materials as the by-law may provide, with roofing of such materials as the council may determine according to the intended use of such buildings, and such by-laws may prohibit the erection or placings of more than the prescribed number of such buildings on any one lot or parcel of land.

(a) "Incombustible material" as applied to roofing in this paragraph means the material prescribed by the by-law with reference to each defined area.

(b) For the purposes of this paragraph, any area or areas in the municipality may be defined by the use of maps attached to the by-law, and the information shown on such maps forms part of the by-law to the same extent as if included therein.

Repairs to  
existing  
buildings

14. For regulating the repairing or alteration of roofs or the external walls of existing buildings within such areas, so that the buildings may be as nearly as practicable fire proof.

Pulling  
down, etc.,  
buildings  
illegally  
erected

15. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling down  
buildings in  
ruinous  
state

16. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise, is in an unsafe condition as regards danger from fire or risk of accident.

Inspecting  
and regu-  
lating  
electric  
wires, etc.

17. For regulating and inspecting wires and other apparatus placed or used for the transmission of electricity for any purpose in or along any highway or on or in any building, and for requiring any such wire or other apparatus that is deemed unsafe or dangerous to be removed or repaired at the expense of the person to whom it belongs or who is using it.

Construction  
of chimneys,  
fireplaces,  
etc.

18. For regulating the construction of chimneys, flues, fireplaces, stoves, ovens, boilers or other apparatus or things that may be dangerous in causing or promoting fire, and for removing at the expense of the owner any of them constructed in contravention of the by-law.

19. For regulating the construction as to dimensions and otherwise of chimneys. Construction of chimneys
20. For regulating and enforcing the erection of party walls. Erection of party walls
21. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them. Construction of cellars, drains, etc.
22. For the purposes of any by-law passed under this section or a predecessor of a provision of this section for adopting, Building codes

(a) in whole or in part the National Building Code of Canada; and

(b) in whole or in part any code or standards adopted, made or sponsored by the Canadian Standards Association, the Canadian Government Specifications Board, the American Society for Testing Materials or any other such body and approved by the National Research Council (Canada),

with such changes as the council may consider necessary and for requiring compliance with any such codes and standards as adopted by the council. 1959, c. 71, s. 5, *part*.

23. For requiring that public buildings to be erected, constructed or altered in the municipality be designed by and the specifications therefor be prescribed by and the erection, construction and alteration thereof be controlled and supervised by a member or licensee of the Ontario Association of Architects under *The Architects Act* or a civil engineer who is a member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act*. Supervision of erection of public buildings  
R.S.O. 1960, cc. 20, 309

(a) In this paragraph, "public buildings" means Interpretation arenas, armouries, amusement park structures, bleachers, bowling alleys, churches, club buildings, community halls, court rooms, curling rinks, dance halls, exhibition buildings, grandstands, gymnasiums, libraries, lodge rooms, museums, passenger stations and depots, recreation piers, reviewing stands, schools, skating rinks, stadia, swimming pool buildings and structures, theatres and other



buildings and structures that are to be used or offered for use as places of public assembly. 1960, c. 83, s. 4.

Township  
by-laws

(2) A by-law passed by the council of a township under any paragraph of subsection 1 may be made applicable to the township or one or more defined areas thereof as set out in the by-law. 1959, c. 71, s. 5, *part*.

Application  
of R.S.O.  
1960, c. 249,  
Part XXI

**32.** Part XXI of *The Municipal Act* applies *mutatis mutandis* to by-laws passed under this Part. 1959, c. 71, s. 5, *part*.

## PART IV

### GENERAL

Right to  
restrain

**33.** In addition to any other remedy or penalty provided by law, any contravention of a by-law that implements an official plan and any contravention of section 15 may be restrained by action at the instance of the planning board of the planning area in which the contravention took place or any municipality within or partly within such planning area or any ratepayer of any such municipality, and any contravention of an order of the Minister made under section 27 may be restrained by action at the instance of the Minister or the municipality in which the contravention took place or any adjoining municipality or any ratepayer of any such municipality or adjoining municipality. 1955, c. 61, s. 28.

Reference  
to Municipal  
Board

**34.**—(1) When under this Act the approval or consent of the Minister is applied for, the Minister may, and upon application therefor shall, refer the matter to the Municipal Board in which case the approval or consent, as the case may be, of the Municipal Board has the same force and effect as if it were the approval or consent of the Minister.

Effect of  
approval

(2) When under this Act the approval or consent of the Minister is given, the signature of the Minister or the seal of the Municipal Board, as the case may be, by which the approval or consent is evidenced is conclusive evidence that the provisions of this Act leading to such approval or consent have been complied with. 1955, c. 61, s. 29.

Conflict

**35.** In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail. 1955, c. 61, s. 30.

## CHAPTER 297

## The Plant Diseases Act

## 1. In this Act,

Interpre-  
tation

- (a) "dealer in nursery stock" means a person who has for sale plants that were propagated at a nursery and that are kept in the soil of the premises on which they are for sale;
- (b) "Director" means the Director appointed under this Act;
- (c) "inspector" means an inspector appointed under this Act;
- (d) "Minister" means the Minister of Agriculture;
- (e) "nursery" means any place where fruit trees, fruit stock or ornamental plants are propagated for sale;
- (f) "plant" means any tree, shrub, vine, tuber, bulb, corm, rhizome or root, or the fruit of any other part of any of them;
- (g) "plant disease" means any disease or injury of a plant that is caused by an insect, virus, fungus, bacterium or other organism and that is designated a plant disease in the regulations;
- (h) "Provincial Entomologist" means the Provincial Entomologist appointed under this Act;
- (i) "regulations" means the regulations made under this Act. 1954, c. 72, s. 1.

2. No person shall transport or ship from a nursery or premises of a dealer in nursery stock, sell, offer for sale, or have in his possession for sale at a nursery or at premises of a dealer in nursery stock, any plant having a plant disease. 1954, c. 72, s. 2.

3.—(1) No person shall operate a nursery without a licence therefor from the Minister. Nursery licence

(2) No person shall be a dealer in nursery stock, other than a person licensed to operate a nursery, without a licence therefor from the Minister. 1954, c. 72, s. 3. Dealer in nursery stock, licence

Director,  
Provincial  
Entomolo-  
gist and  
inspectors

**4.** The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act and may appoint a Provincial Entomologist and one or more inspectors who shall carry out such duties as are assigned to them by this Act or by the regulations or the Director. 1954, c. 72, s. 4.

Municipal  
inspectors

**5.—(1)** The council of any municipality may, and upon receipt of a petition signed by at least twenty-five ratepayers of a township or county, the council of the township or county shall, appoint one or more municipal inspectors to enforce this Act and the regulations in the municipality with respect to any plant disease designated in the by-law, and the by-law shall fix the remuneration to be paid to any such inspector or inspectors.

Approval  
of by-law

**(2)** No such by-law takes effect until it is approved by the Minister.

Powers and  
duties

**(3)** Every municipal inspector has all the powers of an inspector and shall carry out the provisions of this Act and the regulations under the direction of the Provincial Entomologist with respect to the control or eradication of such plant disease in the municipality. 1954, c. 72, s. 5.

Power of  
entry

**6.** An inspector may, between sunrise and sunset, for the purpose of making an inspection,

- (a)** enter any nursery or premises of a dealer in nursery stock;
- (b)** enter any vehicle owned or operated by or for the owner of a nursery or a dealer in nursery stock;
- (c)** enter any farm, garden, orchard or building in or on which he has reason to believe there are plants;
- (d)** enter any premises in which plants are processed and any premises used in connection therewith and in or on which he has reason to believe there are plants having a plant disease or any containers infested with the causal organisms of any plant disease. 1954, c. 72, s. 6.

Disinfection  
of diseased  
plants, etc.

**7.—(1)** Where an inspector finds a plant disease or any causal organisms of a plant disease in or on any premises or vehicle, he may order the owner, occupier or person in charge of the premises or vehicle,

- (a)** to disinfect any plants, land, building, vehicle or container; or



(b) to treat or destroy any plants,

in such manner and within such period of time as the order requires.

(2) Where an inspector finds any causal organisms of a plant disease in the soil of any premises, he may order that the owner or occupier of the premises shall not grow for such period of time as the order requires such species of plants as may become infected by such causal organisms. <sup>a Prohibition to grow certain plants</sup>

(3) Every order under this section shall be in writing and delivered to the owner, occupier or person in charge of the premises or vehicle by an inspector or sent by prepaid mail to his last or usual place of residence. 1954, c. 72, s. 7. <sup>Order</sup>

**8.**—(1) Where the owner, occupier or person in charge of any premises or vehicle deems himself aggrieved by an order of an inspector, he may within five days of the receipt of the order appeal against the order by notice to the Provincial Entomologist. <sup>Appeal</sup>

(2) Upon receipt of a notice of appeal, the Provincial Entomologist shall confirm, revoke or modify the order appealed against and shall notify the appellant of his decision by prepaid mail and the appellant shall carry out such order as is given by the Provincial Entomologist in his decision. 1954, c. 72, s. 8. <sup>Idem</sup>

**9.** Every person who contravenes any provisions of this Act or the regulations or any order of an inspector or of the Provincial Entomologist is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for a first offence, and to a fine of not less than \$25 and not more than \$200 or to a term of imprisonment of not more than thirty days for any subsequent offence. 1954, c. 72, s. 9. <sup>Offence</sup>

**10.** The Lieutenant Governor in Council may make regulations, <sup>Regulations</sup>

- (a) designating plant diseases within the meaning of this Act;
- (b) prescribing the duties of the Provincial Entomologist and of inspectors;
- (c) providing for the issue of licences to operate nurseries and to dealers in nursery stock, and prescribing the term thereof and the fees to be paid therefor;
- (d) providing for the establishment of plant disease control areas;

- (e) providing for the control or eradication of any plant disease in any plant disease control area or in any other area;
  - (f) providing for the issue of certificates as to the freedom from any plant disease of any plants grown in any nursery, farm, garden, orchard or other place or kept on any premises of a dealer in nursery stock;
  - (g) providing for the making of grants by the Minister out of the moneys that are appropriated therefor by the Legislature so as to reimburse any municipality to such extent as is designated for any expense it has been put to under this Act;
  - (h) prescribing forms and providing for their use;
  - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1954, c. 72, s. 10.
-

## CHAPTER 298

## The Police Act

## 1. In this Act,

Interpre-  
tation

- (a) "association" means an association limited to one police force and having among its objects the improvement of conditions of service or remuneration of the members of that force;
- (b) "board" means a board of commissioners of police;
- (c) "Commissioner" means the Commissioner of Police for Ontario;
- (d) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 279, s. 1 (1).

## PART I

## DIVISION OF RESPONSIBILITY

2.—(1) Every city and town is responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate police force in accordance with the police needs of the municipality.

Policing:  
in cities  
and towns

(2) Every village and township which, or any part of which, has a density of population and real property assessment sufficient to warrant the maintenance of a police force and which has been so designated by the Lieutenant Governor in Council is, with regard to the municipality or part thereof, as the case may be, responsible for the policing and maintenance of law and order and for providing and maintaining an adequate police force in accordance with the police needs of the municipality or part thereof.

in villages  
and  
townships

(3) Where by reason of the establishment of any enterprise or because for any other reason special circumstances or abnormal conditions exist in any area that in the opinion of the Attorney General would render it inequitable that the responsibility for policing should be imposed on any municipality or on the Province, the Lieutenant Governor in Council may designate such area a special area and may require any

Special  
circum-  
stances



company operating such enterprise or being the owner of such area to enter into an agreement under section 53, for the policing of such area. R.S.O. 1950, c. 279, s. 2.

Responsi-  
bility of  
Ontario  
Provincial  
Police Force

**3.—(1)** The Ontario Provincial Police Force is responsible for policing all that part of Ontario that is not in a municipality or part of a municipality referred to in section 2, but the Ontario Provincial Police Force is not responsible for policing any part of Ontario in which a municipal police force is maintained.

Additional  
duties of  
Ontario  
Provincial  
Police Force

(2) The Ontario Provincial Police Force, in addition to performing the policing services prescribed in subsection 1, shall,

(a) maintain a traffic patrol on the King's Highway;

R.S.O. 1960,  
cc. 218, 217

(b) subject to any agreement in force under *The Liquor Licence Act*, enforce *The Liquor Licence Act*, *The Liquor Control Act* and the regulations thereunder and any other laws designated by the Attorney General; and

(c) maintain a criminal investigation branch which shall be used to assist municipal police forces on the direction of the Attorney General or at the request of the Crown attorney. R.S.O. 1950, c. 279, s. 3.

Failure to  
provide  
police

**4.** Where the Commissioner reports to the Attorney General that a municipality mentioned in section 2 does not maintain a police force and is not provided with police services pursuant to an agreement under section 52 or 53, the Attorney General may take such action as he deems necessary to secure the proper policing of the municipality by the Ontario Provincial Police Force and charge the municipality with the cost thereof, which may be deducted from any grant payable out of provincial funds to the municipality or may be recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1950, c. 279, s. 4.

Non-com-  
pliance with  
regulations

**5.—(1)** Where the Commissioner reports to the Attorney General that a municipality mentioned in section 2, or any other municipality that maintains its own police force, is not, in the maintenance of such police force, complying with this Act and the regulations, the Attorney General may communicate with the clerk of the municipality indicating that the provisions of this Act or the regulations are not being complied with and requesting the council of the municipality to take such steps as are necessary to comply therewith.

(2) Where the council neglects to comply with a request made under subsection 1, the Attorney General may take such action as he deems necessary to secure the proper policing of the municipality by the Ontario Provincial Police Force and charge the municipality with the cost thereof, which may be deducted from any grant payable out of provincial funds to the municipality or may be recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1950, c. 279, s. 5.

6. Where an area has been designated under subsection 3 of section 2 and the company required to enter into an agreement under section 53 refuses or neglects to enter into an agreement, the Ontario Provincial Police Force shall police the area and the cost thereof may be recovered with costs from the company by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1950, c. 279, s. 6.

## PART II

### MUNICIPAL POLICE FORCES

7.—(1) Notwithstanding any special Act, every city shall have a board and,

- (a) any county or town;
- (b) any village or township having a population of more than 5,000 according to the last revised assessment roll; and
- (c) with the consent of the Attorney General, any village or township having a population less than 5,000 according to the last revised assessment roll,

may, by by-law, constitute a board. 1960, c. 84, s. 1.

(2) The board, except as provided in subsection 3, shall consist of,

- (a) the head of the council;
- (b) a judge of any county or district court designated by the Lieutenant Governor in Council; and
- (c) such person as the Lieutenant Governor in Council designates. R.S.O. 1950, c. 279, s. 7 (2); 1958, c. 79, s. 1 (1).

(3) Where a vacancy occurs on the board by reason of the death of a member designated by the Lieutenant Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Attorney General may in writing appoint some

other judge or person, as the case may be, to act as a member of the board for a period of two months from the date of such appointment, unless the Lieutenant Governor in Council sooner appoints another member. R.S.O. 1950, c. 279, s. 7 (3); 1958, c. 79, s. 1 (2).

Remunera-  
tion

(4) The council shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations, to the members of the board designated by the Lieutenant Governor in Council or appointed by the Attorney General and may provide for the payment of an allowance to the head of the council. R.S.O. 1950, c. 279, s. 7 (4).

Joint boards,  
establish-  
ment

8.—(1) Notwithstanding any special Act, any two or more municipalities, other than cities and counties, having a combined population of more than 5,000 according to their last revised assessment rolls may, if authorized so to do by by-law of their respective councils, by agreement constitute a board. 1953, c. 81, s. 1, *part*.

Composition

(2) A joint board established under subsection 1 shall consist of,

- (a) the head of the council of one of the municipalities;
- (b) a judge designated or appointed in the manner provided in section 7; and
- (c) a person designated or appointed in the manner provided in section 7. 1953, c. 81, s. 1, *part*; 1958, c. 79, s. 2.

Municipal  
representa-  
tives to  
rotate

(3) The municipal representative on a joint board shall be the head of the council of the municipality selected in accordance with the agreement and he shall act as such representative for the remainder of the year in which the agreement comes into operation, to be followed annually in rotation by the head or heads of the council or councils of the other municipality or municipalities in such sequence as the agreement provides.

Application  
of other  
provisions  
of Act

(4) All other provisions of this Act applicable to boards apply *mutatis mutandis* to boards established under this section. 1953, c. 81, s. 1, *part*.

Meetings

9.—(1) The board shall in each year hold such meetings as are prescribed by the regulations and shall at its first meeting in each year elect a chairman.

Quorum

(2) A majority of the members of the board constitutes a quorum.



(3) The meetings of the board shall be open to the public <sup>Meetings open to public</sup> unless otherwise directed by the board. R.S.O. 1950, c. 279, s. 8.

**10.**—(1) The by-law of a village, township, county or town <sup>Repeal of by-law</sup> constituting a board may, with the consent of the Attorney General, be repealed and, if so repealed, the board is dissolved on the 1st day of January next after the passing of the repealing by-law. R.S.O. 1950, c. 279, s. 9.

(2) Where a board is constituted under section 8, the <sup>Idem, joint boards</sup> by-laws of the municipalities constituting the board may, with the consent of the Attorney General, be repealed and, if so repealed, the board is dissolved on the 1st day of January next after the passing of the repealing by-law. 1953, c. 81, s. 2.

**11.**—(1) A by-law of a board is sufficiently authenticated <sup>By-law</sup> if signed by its chairman or acting chairman, and a by-law purporting to be so signed shall be received in evidence in all courts without proof of the signature.

(2) A copy of a by-law purporting to be certified by a <sup>Certified copy of by-law</sup> member of the board to be a true copy shall be received in evidence in all courts without proof of the signature. R.S.O. 1950, c. 279, s. 10.

**12.** A board has the same power to summon and examine <sup>Board to summon witnesses</sup> witnesses on oath as to any matter connected with the execution of its duties, to enforce their attendance, and to compel them to give evidence, as is vested in any court of law in civil cases. R.S.O. 1950, c. 279, s. 11.

**13.** The police force in a municipality having a board shall <sup>Police force</sup> consist of a chief constable and as many constables and other police officers and such assistants as the council deems necessary, but not fewer than the board reports to be required. R.S.O. 1950, c. 279, s. 12.

**14.** The members of the police force in a municipality <sup>Appointment</sup> having a board shall be appointed by the board. R.S.O. 1950, c. 279, s. 13; 1951, c. 66, s. 1.

**15.** A board may by by-law make regulations not incon- <sup>Regulations by board</sup> sistent with the regulations under section 62 for the government of the police force, for preventing neglect or abuse, and for rendering it efficient in the discharge of its duties. R.S.O. 1950, c. 279, s. 14; 1951, c. 66, s. 2.

**16.**—(1) Notwithstanding section 2, the board is responsi- <sup>Police force subject to board</sup> ble for the policing and maintenance of law and order in the

municipality and the members of the police force are subject to the government of the board and shall obey its lawful directions.

Idem

(2) Every member of the police force of a municipality, however appointed, are from and after the passing of a by-law establishing a board, subject to the government of the board to the same extent as if appointed by the board. R.S.O. 1950, c. 279, s. 15.

Sale of  
stolen and  
abandoned  
property

**17.**—(1) Where any motor vehicle, bicycle or any personal property of any kind is in the possession of the board or a member of the police force by reason of having been stolen from its owner or by reason of having been found abandoned in a public place and the board is unable to ascertain its owner, the board may cause it to be sold or otherwise disposed of as hereinafter set forth and, subject to subsection 3, may retain to its own use the proceeds of such sale or disposition. R.S.O. 1950, c. 279, s. 16 (1); 1959, c. 72, s. 1 (1).

Procedure  
for sale

(2) Where such property is perishable, the sale or disposition of it may be made at any time without notice of any kind, and, where such property is not perishable, the board may,

(a) in the case of property, other than motor vehicles or bicycles, after the expiration of three months from the time it came into possession of the board or member of the police force; or

(b) in the case of motor vehicles or bicycles, after the expiration of one month from the time it came into possession of the board or member of the police force,

sell it by public auction after at least ten days notice of the time and place of holding such auction has been given by publication once in a newspaper published in the municipality, and any such sale may be adjourned from time to time until the property is sold.

Proceeds  
of sale

(3) Where a motor vehicle or bicycle is sold under subsection 2 before the expiration of three months, the owner thereof may, at any time before the three months expire, claim the proceeds of the sale, less the costs of advertising and sale. 1959, c. 72, s. 1 (2).

R.S.O. 1960,  
c. 172  
paramount

(4) This section is subject to *The Highway Traffic Act*. R.S.O. 1950, c. 279, s. 16 (3).

Submission  
of estimates  
to council

**18.** Every board shall, on or before the 1st day of March in each year, prepare and submit to the council for its consideration and approval, its estimates of all moneys required for the year to pay the remuneration of the members of the police

force and to provide and pay for offices, arms, equipment, clothing and other things for the accommodation, use and maintenance of the force. R.S.O. 1950, c. 279, s. 17.

#### APPOINTMENT BY MUNICIPAL COUNCIL

**19.**—(1) The council of every town, village, county or township, not having a board, may establish a police force consisting of one or more constables or other police officers appointed by the council. Municipalities, where no board

(2) Where the police force has two or more members, the council may appoint one member to be chief constable. R.S.O. 1950, c. 279, s. 18. Chief constable

**20.**—(1) The trustees of a police village may establish a police force consisting of one or more constables appointed by the trustees. Police villages

(2) Every member of the police force may be paid by salary or may keep for his own use the fees of his office as the trustees determine. Salary

(3) Where a member of the police force is paid by salary, the trustees may require that the fees of his office be paid to the treasurer of the township in which the village is situate or where the village comprises parts of two or more townships, to the treasurer of any or either of them for the use of the village. When fees to belong to village

(4) The trustees may provide and pay for offices, arms, equipment, clothing and other things for the accommodation, use and maintenance of the members of the police force. R.S.O. 1950, c. 279, s. 19. Equipment

**21.**—(1) The cost incurred by a township in maintaining its own police force or by reason of an agreement under section 52 or 53 may, if the council deems proper, be paid by a rate levied on any area or areas defined by the council. Cost of policing by levy

(2) Whether or not any area has been defined under subsection 1, the council may exempt lands and buildings used exclusively in connection with farming from any rate levied for the purpose of paying such cost. R.S.O. 1950, c. 279, s. 20. Exemption of farm lands and buildings

**22.** The council by which a member of a police force is appointed may provide for the payment to him of such salary or remuneration as the council determines. R.S.O. 1950, c. 279, s. 21. Salary and remuneration



Fees of  
salaried  
police officer

**23.** The council may agree with a salaried member of the police force appointed either by the council or by the board that he shall keep for his own use the fees of his office, or may require them to be paid to the treasurer for the use of the municipality. R.S.O. 1950, c. 279, s. 22.

Indemnify-  
ing police  
officers

**24.—(1)** The council of a municipality may pay any sum required for the protection, defence or indemnification of any member of the police force, where an action or prosecution is brought against him, and costs are necessarily incurred or damages are recovered.

In municipi-  
pality having  
board

**(2)** In a municipality having a board such sum shall be paid only where the board certifies that the case is a proper one for such payment or indemnity. R.S.O. 1950, c. 279, s. 23.

Aid to  
widows and  
children in  
certain cases

**25.** The council may grant pecuniary aid or other assistance to the widows and children of members of the police force who are killed or die from injuries received, or from illness contracted in the discharge of their duties. R.S.O. 1950, c. 279, s. 24.

#### BARGAINING AND ARBITRATION

Membership  
in trade  
union for-  
bidden

**26.** A member of a police force shall not remain or become a member of any trade union or of any organization that is affiliated directly or indirectly with a trade union. R.S.O. 1950, c. 279, s. 26.

Bargaining

**27.—(1)** When requested in writing by a majority of the full-time members of the police force, the council of the municipality, or where there is a board, the board, shall within 120 days after receipt of the request commence to bargain in good faith with a bargaining committee of the members of the police force for the purpose of making an agreement in writing defining, determining and providing for remuneration, pensions, sick leave credit gratuities or working conditions of the members of the police force, other than the chief constable and any deputy chief constable, except such working conditions as are governed by a regulation made by the Lieutenant Governor in Council under this Act. 1956, c. 65, s. 1.

Association

**(2)** Where not less than 50 per cent of the full-time members of the police force belong to an association, any request made under subsection 1 shall be made by the association.

Affiliated  
body

**(3)** In every case the members of a bargaining committee shall be full-time members of the police force, but where,

(a) the association is affiliated with a police organization;  
or

- (b) not less than 50 per cent of the full-time members of the police force belong to a police organization,

at all meetings held with the council of the municipality or a committee thereof, or the board, as the case may be, for the purpose of bargaining, the bargaining committee may be accompanied by one member of such organization who is actively engaged in the occupation of a police officer and who shall attend in an advisory capacity only.

(4) When the request involves pensions under a pension plan established or to be established under *The Municipal Act*, notice of such request shall be given to the Department of Municipal Affairs which may determine the maximum pension benefits that may be included in any agreement, decision or award with respect to such pension plan. R.S.O. 1950, c. 279, s. 27 (2-4). Pension plans under R.S.O. 1960, c. 249

**28.**—(1) Except in the case of a police force having fewer than ten members, where after bargaining under section 27 the council of the municipality, or where there is a board, the board, or the members of the police force, or where there is a bargaining committee, the bargaining committee is or are satisfied that an agreement cannot be reached, it or they, as the case may be, may by notice in writing to the other party require all matters in dispute to be referred to a board of arbitration of three members in which case the parties shall each appoint a member and the third member, who shall be the chairman, shall be appointed by the two members so appointed. R.S.O. 1950, c. 279, s. 28 (1); 1960, c. 84, s. 2. Board of arbitration

(2) Where either party fails to appoint a member of the board of arbitration within thirty days, or having appointed a person who is unable or unwilling to act, fails to appoint another member within thirty days, the Attorney General may, upon the written request of the other party, appoint a member in lieu thereof. R.S.O. 1950, c. 279, s. 28 (2); 1956, c. 65, s. 2. Failure to appoint member

(3) Where the two members of the board of arbitration appointed by the parties fail, within five days of the appointment of the one last appointed, to agree upon a third member, the Attorney General may, upon notice in writing of such failure given to him by either of them or by either of the parties, appoint the third member. Failure to appoint chairman

(4) Where upon an arbitration, a majority of the members of the board of arbitration fail to agree upon any matter, the decision of the chairman upon such matter shall be deemed to be the decision of the board. Decision of board of arbitration

**Costs** (5) Each party shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. R.S.O. 1950, c. 279, s. 28 (3-5).

**Arbitrator** **29.**—(1) In the case of a police force having fewer than ten members, where after bargaining under section 27 the council of the municipality or where there is a board, the board, or the bargaining committee is or are satisfied that an agreement cannot be reached, it or they, as the case may be, may by notice in writing to the other party require all matters in dispute to be referred to a single arbitrator who shall be appointed by the parties. 1956, c. 65, s. 3, *part*; 1960, c. 84, s. 3.

**Failure to appoint arbitrator** (2) Where the parties fail to appoint an arbitrator within thirty days after receipt of the notice mentioned in subsection 1, the Attorney General may, upon the written request of either of the parties, appoint the arbitrator.

**Costs** (3) The parties shall share equally the cost of the arbitration proceedings and the cost of the arbitrator. 1956, c. 65, s. 3, *part*.

**Commencement and termination of arbitration proceedings** **30.** The board of arbitration or arbitrator, as the case may be, shall commence the arbitration proceedings within thirty days after it is constituted or he is appointed and shall deliver the decision or award within sixty days after the commencement of the arbitration proceedings. 1956, c. 65, s. 3, *part*.

**Extension of periods** **31.** Any of the periods mentioned in sections 27, 28, 29 and 30 may be extended at any time by agreement of the parties or by the Attorney General. 1956, c. 65, s. 3, *part*.

**Agreements to contain arbitration provision** **32.**—(1) Every agreement made under section 27 shall provide for the final and binding settlement by arbitration of all differences between the parties arising from the interpretation, application or administration of the agreement, including any question as to whether a matter is arbitrable, or of any decision or award made under section 28 or 29, or arising from any alleged violation of the agreement or of any decision or award.

**Idem** (2) Where the agreement does not contain such a provision as is mentioned in subsection 1 and a difference arises between the parties relating to any matter mentioned in subsection 1, either of the parties may notify the other party in writing of its desire to submit the difference or allegation to arbitration, and if the recipient of the notice and the party desiring the arbitration do not within fourteen days agree upon a single arbitrator, the appointment of a single arbitrator shall be



made by the Attorney General upon the request of either party, and the arbitrator shall hear and determine the difference or allegation and shall issue a decision. 1956, c. 65, s. 3, *part.*

**33.**—(1) Every agreement made under section 27 and every decision or award of a majority of the members of a board of arbitration under section 28 or of an arbitrator under section 29 or 32 is binding upon the council of the municipality, the board, where there is a board, and the full-time members of the police force, other than the chief constable and any deputy chief constable. 1956, c. 65, s. 4. Effect of agreement or award

(2) Every agreement, decision or award remains in effect until the end of the year in which it comes into effect and thereafter remains in effect until replaced by a new agreement, decision or award. R.S.O. 1950, c. 279, s. 30 (2). Duration of agreements, etc.

(3) Notwithstanding subsection 2, the parties to an agreement may provide therein or at any time before a decision or award is made with respect thereto that the agreement and any such decision or award shall remain in effect until the end of the year next following the year in which it comes into effect, in which case it remains in effect for such period and thereafter remains in effect until replaced by a new agreement, decision or award. 1958, c. 79, s. 3. Idem

(4) Either party to collective bargaining that has resulted in an agreement, decision or award may proceed under sections 27, 28 and 29 at any time for a new agreement, decision or award. R.S.O. 1950, c. 279, s. 30 (3). New agreements, etc.

**34.**—(1) An agreement, decision or award takes effect upon the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures incurred in the agreement, decision or award, whether such day is before or after the date of the agreement, decision or award, unless another day is named in the agreement, decision or award in lieu thereof. Effect of agreement, decision or award

(2) Where, pursuant to subsection 1 another day is named in an agreement, decision or award as the day upon which the agreement, decision or award is to take effect and such day is prior to the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures involved in the agreement, decision or award, any of the provisions involving expenses shall, notwithstanding the naming of such day, take effect from the first day of such fiscal period. R.S.O. 1950, c. 279, s. 31. Idem

Provision  
for expen-  
diture  
involved  
in request

**35.** Where a request in writing is made under subsection 1 of section 27 after the 30th day of November in any year and before the 1st day of December in the year next following and no agreement, decision or award has resulted therefrom at the time when the council is passing its estimates in the year next following the last-mentioned year, the council shall make adequate provision for the payment of such expenditures as are involved in the request. R.S.O. 1950, c. 279, s. 32.

### PART III

#### PROVINCIAL SUBSIDIES FOR MUNICIPAL POLICE FORCES

Interpre-  
tation

**36.** In this Part,

- (a) "member" means a member of a police force;
- (b) "police force" means a police force within the meaning of Part II maintained by a city or town or by a village or township for the purpose of discharging its responsibility under subsection 2 of section 2;
- (c) "population" means the population ascertained from the last revised assessment roll. R.S.O. 1950, c. 279, s. 33.

Grants  
in aid

R.S.O. 1960,  
c. 437

**37.**—(1) The Treasurer of Ontario may make an annual grant out of the Consolidated Revenue Fund to every municipality having a police force, and the amount of such grant shall be equal to the following proportion of the total of the amounts paid by the municipality during the year preceding the year in which the grant is made in respect of *The Workmen's Compensation Act* or a benefit plan approved by the Workmen's Compensation Board and in respect of contributions to a pension plan for the members:

1. Where the population of the municipality is less than 10,000, 25 per cent.
2. Where the population of the municipality is 10,000 or more and less than 25,000, 20 per cent.
3. Where the population of the municipality is 25,000 or more and less than 70,000, 15 per cent.
4. Where the population of the municipality is 70,000 or more, 10 per cent. 1953, c. 81, s. 3.

Parts of  
villages  
and town-  
ships

(2) Where a part of a village or township has a density of population and a real property assessment sufficient to warrant the maintenance of a police force and the part has been so designated by the Lieutenant Governor in Council under subsection 2 of section 2, the population of the part or, where there is more than one part in a village or township, the total

population of the parts, shall be deemed to be the population of the municipality for the purposes of this section. R.S.O. 1950, c. 279, s. 34 (2).

(3) Where the Commissioner provides police services in a municipality mentioned in section 2 pursuant to an agreement under section 53, the municipality shall for the purposes of this Part be deemed to have a police force. 1956, c. 65, s. 5.

Municipalities  
policed by  
agreement

**38.** No grant under section 37 shall be made,

Requirements for  
payment  
R.S.O. 1960,  
c. 437

- (a) unless all members of the police force are under *The Workmen's Compensation Act* or a benefit plan approved by the Workmen's Compensation Board;
- (b) where the council of the municipality or the board is in default under Part II or under any agreement, decision or award made under the collective bargaining provisions of Part II; and
- (c) unless a pension plan established under any Act for the members is in force under which the municipality contributes an amount not less than 5 per cent of the amount of the salaries of the members participating in the plan. R.S.O. 1950, c. 279, s. 36.

**39.—**(1) The treasurer of a municipality making claim in any year to a grant under this Part shall, so soon as may be in the year after the amounts upon which the grant is based have been determined for the preceding year, send to the Department of Municipal Affairs a statement in the form furnished by the Department showing,

Treasurer's  
statement

- (a) that the requirements of section 38 have been met; and
- (b) the amounts upon which the grant is based as determined for the preceding year together with such particulars thereof as the Department requests. R.S.O. 1950, c. 279, s. 37 (1); 1953, c. 81, s. 5.

(2) The Department of Municipal Affairs shall examine the statement and if it is satisfied as to the correctness thereof it shall so certify to the Treasurer of Ontario.

Certificate  
as to  
accuracy

(3) Where the Department of Municipal Affairs notifies the treasurer of the municipality that it is not satisfied as to the correctness of the statement, the council of the municipality, within fourteen days of the receipt by the treasurer of the notice, may refer any matter in dispute to the Ontario Municipal Board, whose decision thereon is final and shall be acted upon by the Department. R.S.O. 1950, c. 279, s. 37 (2, 3).

Reference  
to Ontario  
Municipal  
Board



## PART IV

## ONTARIO PROVINCIAL POLICE FORCE

Commissioner

**40.**—(1) There shall be a Commissioner of Police for Ontario, who shall be appointed by the Lieutenant Governor in Council.

Powers and duties of Commissioner

(2) The Commissioner has the general control and administration of the Ontario Provincial Police Force and the employees connected therewith, and of all officers specially appointed for the enforcement of any statute of Ontario, and he and all such officers and employees and the members of the Force are responsible to the Attorney General.

Investigations by Commissioner

(3) The Commissioner or a Deputy Commissioner may hold an inquiry into the conduct of any member of the Ontario Provincial Police Force or of any officer or employee under his control and upon such inquiry he has and may exercise all the powers and authority that may be conferred upon a person appointed under *The Public Inquiries Act*. R.S.O. 1950, c. 279, s. 38.

R.S.O. 1960, c. 323

Commissioner to be *ex officio* magistrate

**41.**—(1) Unless otherwise provided by order in council, the Commissioner is *ex officio* a magistrate for the Province of Ontario and he has and may exercise and perform the powers and duties of a magistrate, and may take informations and issue warrants or summonses in any city, town, county, provisional county or provisional judicial district or other locality in Ontario, and may make the same returnable in the city, town, county, provisional county, provisional judicial district or other locality in which the offence charged is alleged to have been committed.

Exercise of jurisdiction

(2) The jurisdiction conferred by subsection 1 may be exercised by the Commissioner notwithstanding that there is in the locality in which he acts, a magistrate, who, under *The Magistrates Act* or any other statute, has jurisdiction exclusive or otherwise. R.S.O. 1950, c. 279, s. 39.

R.S.O. 1960, c. 226

Ontario Provincial Police Force

**42.**—(1) The Ontario Provincial Police Force shall consist of the Commissioner and such other police officers and constables as the Lieutenant Governor in Council appoints.

Employees

(2) The Lieutenant Governor in Council may appoint such employees as may be required in connection with the Force. R.S.O. 1950, c. 279, s. 40.

Duties of members of Force

**43.**—(1) It is the duty of the members of the Ontario Provincial Police Force subject to this Act and the orders of the Commissioner,

- (a) to perform all duties that are assigned to constables in relation to the preservation of the peace, the prevention of crime and of offences against the laws in force in Ontario and the criminal laws of Canada and the apprehension of criminals and offenders and others who may be lawfully taken into custody;
- (b) to execute all warrants, perform all duties and services thereunder or in relation thereto that may, under the laws in force in Ontario, be lawfully executed and performed by constables;
- (c) to perform all duties that may be lawfully performed by constables in relation to the escort and conveyance of convicts and other prisoners and mentally incompetent persons to and from any courts, places of punishment or confinement, hospitals or other places; and
- (d) generally to perform such duties as are from time to time assigned to them by the Commissioner.

(2) Except under an agreement entered into under section 53, the Ontario Provincial Police Force shall not be charged with any duties under or in connection with any municipal by-laws. R.S.O. 1950, c. 279, s. 41. Municipal  
by-laws

**44.**—(1) Any money appropriated by the Legislature for the purpose of enforcing or preventing the contravention of the laws of Ontario or Canada, or of any regulation made thereunder, shall be known as the Law Enforcement Fund and payments from the Fund shall be made under the direction of the Attorney General to such persons and for such purposes as he thinks proper, to be expended in such law enforcement, including the cost of the Ontario Provincial Police Force. Law En-  
forcement  
Fund

(2) The certificate or order of the Attorney General that a sum of money is required to be paid out of the Fund is sufficient authority for the issue of a cheque by the Treasurer of Ontario for the amount named in the certificate or order, and the officer or other person to whom the cheque is issued shall account for the proper disbursement of the proceeds thereof to the Attorney General whose approval of the account is final. Payment  
out of  
Fund

(3) Where a member of the Ontario Provincial Police Force is engaged in a matter of extradition or other special investigation, or where he performs any act or discharges any duty with the authority and under the direction of the Attorney General, he shall be allowed such travelling, incidental and other expenses as the Attorney General approves, and they shall be paid out of the Fund. R.S.O. 1950, c. 279, s. 42. Expenses

Service  
badges

**45.**—(1) The Lieutenant Governor in Council may provide for the granting of service badges to the members of the Ontario Provincial Police Force or any class thereof and for money allowances to be paid to the members entitled to any service badge.

Allowances

(2) The money allowance shall be paid out of the Law Enforcement Fund and shall be deemed to be part of the salary of the member. R.S.O. 1950, c. 279, s. 43.

## PART V

### GENERAL

Constables  
empowered  
to act  
throughout  
Ontario

**46.** Every chief constable, other police officer and constable, except a special constable or a by-law enforcement officer, has authority to act as a constable throughout Ontario. R.S.O. 1950, c. 279, s. 44.

Duties and  
powers of  
members of  
police forces

**47.** The members of police forces appointed under Part II are charged with the duty of preserving the peace, preventing robberies and other crimes and offences, including offences against the by-laws of the municipality, and apprehending offenders, and laying informations before the proper tribunal, and prosecuting and aiding in the prosecuting of offenders, and have generally all the powers and privileges and are liable to all the duties and responsibilities that belong to constables. R.S.O. 1950, c. 279, s. 45.

Investiga-  
tions

**48.**—(1) The Attorney General may require the Commissioner or any other person to investigate, inquire into and report to the Attorney General upon the conduct of or the performance of duties by any chief constable, other police officer, constable, special constable or by-law enforcement officer, the administration of any police force, the system of of policing any municipality, and the police needs of any municipality,

(a) at the request of the council of any municipality, in which case the municipality, unless the Attorney General otherwise directs, shall pay the cost of the investigation; or

(b) without the request of the council of a municipality, in which case the cost of the investigation shall be paid out of the Consolidated Revenue Fund. R.S.O. 1950, c. 279, s. 46 (1); 1958, c. 79, s. 4.

Powers of  
investigator

R.S.O. 1960,  
c. 323

(2) The person directed to hold such investigation has all the powers and authority that may be conferred upon a person appointed under *The Public Inquiries Act*.



(3) The report of an investigation made at the request of the council of a municipality shall be communicated by the Attorney General to the council of such municipality. R.S.O. 1950, c. 279, s. 46 (2, 3). Report to be communicated to council

**49.**—(1) The Crown attorney may request the services of the Ontario Provincial Police Force in any area for the policing of which a municipality or board is responsible and the cost of furnishing such services shall be certified by the Crown attorney or the Commissioner and, unless the Attorney General otherwise directs, the amount so certified shall be paid by the municipality to the Treasurer of Ontario and may be deducted from any grant payable out of provincial funds to the municipality or recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. Expenses of provincial police when payable by municipality

(2) In a provisional judicial district the treasurer of the district may, on the written request of the Crown attorney, make an advance to any member of the Ontario Provincial Police Force for the purpose of paying reasonable and necessary expenses incurred in any criminal matter. R.S.O. 1950, c. 279, s. 47. Advances to provincial police in districts

**50.**—(1) A board or council responsible for the policing of a municipality or part thereof may by resolution request the Commissioner to furnish the assistance of the Ontario Provincial Police Force in maintaining law and order or investigating any offence in the municipality and the Commissioner may provide such assistance as he deems necessary. Municipality may request assistance of provincial police

(2) Where such assistance is provided in an area for the policing of which the board or municipality is responsible, the expense incurred shall be certified by the Commissioner and, unless the Attorney General otherwise directs, the amount certified shall be paid by the municipality to the Treasurer of Ontario and may be deducted from any grant payable out of provincial funds to the municipality or recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1950, c. 279, s. 48. Expenses, how payable

**51.** The obligation of a municipality to provide and maintain a police force may be discharged by entering into an agreement under section 52 or 53. R.S.O. 1950, c. 279, s. 49. Obligation of municipality to provide police force

**52.** The board, or if none, the council of a municipality may by agreement with the board, or if none, the council of another municipality, provide that the services of the members of the police force of the first-mentioned municipality shall be available in the other municipality upon such terms Municipal policing agreements

and conditions as are set forth in the agreement. R.S.O. 1950, c. 279, s. 50.

Agreement  
for provin-  
cial police  
to police  
municipalities

**53.**—(1) Subject to the approval of the Attorney General, the Commissioner may enter into an agreement with the council of any municipality for the policing of the whole or any part of the municipality, or with any company for the policing of any area, by the Ontario Provincial Police Force. R.S.O. 1950, c. 279, s. 51 (1); 1951, c. 66, s. 4.

No agree-  
ment except  
on request  
of board

(2) In municipalities having a board no agreement shall be entered into under this section except at the request of the board.

Rates of  
pay to be  
considered

(3) No agreement shall be entered into under this section with a municipality at a cost that is less than the aggregate of police salaries paid by the municipality or where in the opinion of the Commissioner such an agreement is sought for the purpose of defeating the collective bargaining provisions of this Act.

Duties

(4) Where an agreement has been entered into under subsection 1, the members of the Ontario Provincial Police Force assigned to duty in the municipality or area are charged with the duty of preserving the peace, preventing crime and other offences, including offences against the by-laws of the municipality, and shall perform such other duties as are specified in the agreement.

Moneys to  
be paid  
into Con-  
solidated  
Revenue  
Fund

(5) The moneys received from a municipality or company pursuant to an agreement entered into under subsection 1 shall be paid into the Consolidated Revenue Fund.

Fines, etc.

(6) Where a municipality is entitled to receive fines or the proceeds of estreated recognizances because of prosecutions instituted by constables appointed by the council or by a board and the municipality has entered into an agreement with the Commissioner or with another municipality to furnish police services, such members of the Ontario Provincial Police Force or of the police force of the other municipality as are assigned for duty under the agreement shall, for the purposes of the disposition of any such fines or proceeds, be deemed to be constables of the first-mentioned municipality. R.S.O. 1950, c. 279, s. 51 (2-6).

When board  
to act in  
advisory  
capacity

**54.** Where pursuant to section 53 the Commissioner enters into an agreement with a municipality having a board, sections 13, 14, 15 and 16 do not apply but the board shall act in an advisory capacity to the senior officer of the Ontario Provincial Police Force in the municipality and to the Commissioner with respect to the policing of the municipality. R.S.O. 1950, c. 279, s. 52.

**55.**—(1) Every person appointed to be a chief constable, Oath other police officer or constable shall before entering on the duties of his office, and every special constable when thereunto required, take and subscribe the following oath:

I, ....., do swear that I will well and truly serve Her Majesty the Queen in the office of constable (*or as the case may be*) for the ..... of ..... without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to the law. So help me God.

C.D.

Sworn, etc.

(2) The oath of every member of a municipal police force shall be deposited in the office of the clerk of the municipality or of the secretary of the board of the municipality for which he is appointed. R.S.O. 1950, c. 279, s. 53. Disposition of oath

**56.** The expenses of and incidental to the calling out of the active militia in aid of the civil powers shall be paid by the corporation of the city or separated town wherein their services are required, and in the case of other municipalities by the county. R.S.O. 1950, c. 279, s. 54. Active militia, calling out

**57.** A municipality having an interest in a building or area beyond the boundaries of the municipality may undertake and agree to pay the whole or a part of the cost of policing such building or area. R.S.O. 1950, c. 279, s. 55. Policing beyond boundaries of municipality

**58.**—(1) The Commissioner, a county court judge, a district court judge or a magistrate may, by written authority, appoint any person to act as special constable for such period, area and purpose as he deems expedient. Special constables

(2) Where an appointment is made by a judge or a magistrate, written notice of the appointment and the circumstances that render it expedient shall be forthwith transmitted to the Commissioner. Notice of appointment

(3) The judge or magistrate who has appointed a special constable, or the Commissioner, may suspend or terminate the services of such constable, and written notice of the suspension or termination shall, if made by a judge or magistrate, be forthwith transmitted to the Commissioner. Suspension or termination of services

(4) Every authority appointing a special constable shall require him to take and subscribe an oath similar to that set out in subsection 1 of section 55. R.S.O. 1950, c. 279, s. 56. Oath of special constable



By-law  
enforcement  
officer

**59.** The council of any municipality or the trustees of any police village may appoint one or more by-law enforcement officers who shall have the authority of a constable with respect to the enforcement of the by-laws of the municipality or police village, as the case may be. R.S.O. 1950, c. 279, s. 57.

Causing  
disaffection,  
etc.

**60.**—(1) Every person, including a member of a police force who,

- (a) causes or attempts to cause, or does any act calculated to cause disaffection among the members of a police force;
- (b) induces or attempts to induce, or does any act calculated to induce a member of a police force to withhold his services or commit a breach of discipline; or
- (c) being a member of a police force, withholds his services,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than one year, or both.

Consent

(2) No prosecution shall be instituted under this section without the consent of the Attorney General.

Disqualifica-  
tion and  
forfeiture  
of rights

(3) Where a person convicted of an offence under subsection 1 is a member of a police force, he shall,

- (a) cease to be a member and shall not thereafter be appointed to any police force; and
- (b) subject to any agreement with or by-law of the municipality, forfeit all pension rights under any pension scheme of such police force except his right to receive such moneys as he has paid into any fund under the scheme with interest at the rate payable under the scheme. R.S.O. 1950, c. 279, s. 58.

Ontario  
Police  
College

**61.** There shall be a police college to be known as the Ontario Police College for the training of members of police forces and the Attorney General shall preside over and have charge of the College. 1960, c. 84, s. 4.

#### REGULATIONS

Regulations

**62.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) for the government of police forces and governing the conduct, duties, suspension and dismissal of members of police forces;

- (b) prescribing the qualification and age limits of persons to be appointed to police forces;
- (c) prescribing the minimum salary or other remuneration and allowances to be paid to members of police forces;
- (d) prescribing the minimum remuneration to be paid by a municipality to the members of boards who are designated by the Lieutenant Governor in Council or appointed by the Attorney General;
- (e) prescribing the minimum number of members of police forces that shall be employed either upon a basis of population, area, property assessment, or any combination thereof or upon any other basis;
- (f) prescribing requirements respecting clothing and equipment to be furnished by municipalities;
- (g) prescribing courses of training for members of police forces;
- (h) providing for or granting financial aid to and the administration and course of study in a police training school;
- (i) prescribing or regulating the number of meetings to be held by boards and the times and places at which they are to be held;
- (j) prescribing the records, returns, books and accounts to be kept and made by police forces or the members thereof;
- (k) prescribing the method of accounting for fees and costs and other money that comes into the hands of members of police forces;
- (l) respecting any matter relating to the Commissioner and the Ontario Provincial Police Force as is deemed necessary;
- (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.  
R.S.O. 1950, c. 279, s. 60 (1); 1951, c. 66, s. 5.

(2) Any regulation made under the authority of subsection 1 may be general or particular in its application. R.S.O. 1950, c. 279, s. 60 (2). Regulations may be general or particular

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## CHAPTER 299

## The Pounds Act

**1.** Except so far as varied by any by-law passed under paragraphs 3 to 6 of subsection 1 of section 379 of *The Municipal Act*, this Act is in force in every city, town, township and village in Ontario. R.S.O. 1950, c. 280, s. 1.

Scope of Act  
save as  
varied by  
by-laws  
R.S.O. 1960,  
c. 249

**2.** The owner or occupant of any land is responsible for any damage caused by any animal under his charge and keeping as though such animal were his own property, and the owner of any animal not permitted to run at large by the by-laws of the municipality is liable for any damage done by such animal, although the fence enclosing the premises of the complainant was not of the height required by such by-laws. R.S.O. 1950, c. 280, s. 2.

Liability of  
owners and  
others for  
damage  
done

**3.**—(1) Damages are not recoverable in respect of injuries committed upon any land in a provisional judicial district by horses, cattle, sheep or swine straying on such land unless the animal so straying was running at large contrary to a municipal by-law.

In pro-  
visional  
judicial  
districts

(2) Where there is no such by-law in force in the municipality or where such trespass was committed upon land in any part of such district not included in an organized municipality, no such damages are recoverable unless the animal has broken through or jumped over a fence then being in reasonably good repair and of the height of four and one-half feet.

Unless  
animal  
broke  
through or  
jumped over  
fence

(3) This section does not apply to breachy or unruly animals. R.S.O. 1950, c. 280, s. 3.

Exception

**4.** No bull over the age of ten months nor any swine shall be allowed to run at large in any part of such district not included in an organized municipality. R.S.O. 1950, c. 280, s. 4.

Bulls and  
swine not  
to run at  
large

**5.** The owner of a bull or swine running at large contrary to section 4 is liable in damages for all injuries committed by such animal or animals, and also is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1950, c. 280, s. 5.

Owner of  
bull liable  
for damages

What animals to be impounded

**6.—**(1) If not previously replevied, the poundkeeper shall impound any horse, bull, ox, cow, sheep, goat, pig or other cattle, geese or other poultry, distrained for unlawfully running at large or for trespassing and doing damage, delivered to him for that purpose by any person resident in his division who has distrained the same.

Poultry

(2) If the owner of geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbour's premises after a notice in writing has been served upon him of their trespass, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1950, c. 280, s. 6.

Notice to clerk as to animals impounded

**7.** Where an animal has been impounded, the poundkeeper shall, within twenty-four hours, deliver to the clerk of the municipality a notice in writing containing a description of the colour, age and natural and artificial marks of the animal, as nearly as may be. R.S.O. 1950, c. 280, s. 7.

When the common pound is not safe

**8.** When the common pound of the municipality or place wherein a distress has been made is not secure, the poundkeeper may confine the animal in any enclosed place within the limits of the poundkeeper's division within which the distress was made. R.S.O. 1950, c. 280, s. 8.

Statement of demand to be delivered to poundkeeper by impounder

**9.—**(1) The person distraining and impounding the animal shall, at the time of the impounding, deposit poundage fees, if demanded, and within twenty-four hours thereafter deliver to the poundkeeper duplicate statements in writing of his demands against the owner for damages, if any, not exceeding \$20, done by such animal, exclusive of poundage fees, and shall also give his written agreement, with a surety if required by the poundkeeper, in the following form or in words to the same effect:

Form of agreement with poundkeeper

I (*or we, as the case may be*) do hereby agree that I (*or we*) will pay to the owner of the (*describing the animal*), by me (*A.B.*) this day impounded, all costs to which the owner may be put in case the distress by me the said (*A.B.*) proves to be illegal or in case the claim for damages now put in by me the said (*A.B.*) fails to be established.

Release of animal on security being furnished

(2) The owner of an animal impounded is entitled to it at any time on demand made therefor, without payment of any poundage fees, on giving satisfactory security to the poundkeeper for all costs, damages and poundage fees that may be established against him. R.S.O. 1950, c. 280, s. 9.

When animal may be retained by distrainer

**10.—**(1) If the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if it is distrained by a resident of the municipality for straying in his premises,

instead of delivering the animal to the poundkeeper, he may retain the animal in his own possession, if he makes no claim for damages done by the animal and duly gives the notices hereinafter required.

(2) If the owner is known, the person distraining shall forthwith give the owner notice in writing of having distrained the animal. Notice to owner if known

(3) If the owner is unknown, the person distraining shall, within forty-eight hours, deliver to the clerk of the municipality a notice in writing of having distrained the animal containing a description of its colour, age and natural and artificial marks, as nearly as may be. If unknown, notice to clerk of municipality

(4) The clerk on receiving the notice shall forthwith enter a copy thereof in a book to be kept by him for that purpose and shall post it or a copy thereof in some conspicuous place on or near the door of his office and keep it so posted for at least one week, unless the animal is sooner claimed by the owner. Duty of clerk thereon

(5) If the animal or animals distrained at the same time is or are of the value of \$10 or more, the distrainer shall cause a copy of the notice to be published in a newspaper in the county or district once a week for three successive weeks. If animals worth \$10 or over  
R.S.O. 1950, c. 280, s. 10.

**11.** If an animal is impounded, notices for the sale thereof shall be given by the poundkeeper or person who impounded it within forty-eight hours afterwards, but no pig or poultry shall be sold until after four clear days, nor any horse or other cattle till after eight clear days, from the time of impounding it. Sale after notice  
R.S.O. 1950, c. 280, s. 11.

**12.** If the animal is a pig, goat or sheep and is not impounded but is retained in the possession of the person distraining it, the notices for the sale thereof shall not be given for one month, and, if the animal is a horse or other cattle, the notices shall not be given for two months after the animal was distrained. If animal is not impounded, but retained  
R.S.O. 1950, c. 280, s. 12.

**13.** The notices of sale shall be posted up for three clear successive days in three public places in the municipality and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law, if any, the amount of the injury, if any, claimed or decided to have been committed by the animal to the property of the person who distrained it, together with the lawful fees Notice of sale unless redeemed



and charges of the poundkeeper and also of the fence-viewers, if any, and the expenses of the animal's keeping. R.S.O. 1950, c. 280, s. 13.

Food to be  
furnished  
impounded  
animal

**14.** Every poundkeeper and every person who impounds or confines, or causes to be impounded or confined, an animal in a common pound or in an open or close pound, or in an enclosed place, shall daily furnish the animal with good and sufficient food, water and shelter during the whole time that it continues impounded or confined. R.S.O. 1950, c. 280, s. 14.

Recovery of  
expenses

**15.—**(1) Every such person who furnishes an animal with food, water and shelter may recover the value thereof from the owner of the animal and also a reasonable allowance for his time, trouble and attendance in the premises.

Procedure  
for recovery

(2) Such value and allowance may be recovered with costs by summary proceeding before a justice of the peace in whose jurisdiction the animal was impounded in like manner as fines, penalties or forfeitures for the breach of a by-law of the municipality may by law be recovered and enforced by a single justice of the peace, and the justice shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering, so far as applicable, to the tariff of poundkeepers' fees and charges established by the by-laws of the municipality. R.S.O. 1950, c. 280, s. 15.

Other mode  
of enforcing

**16.** The poundkeeper or person so entitled to proceed may, instead of such summary proceeding, enforce the remuneration to which he is entitled in manner hereinafter mentioned. R.S.O. 1950, c. 280, s. 16.

Procedure  
for sale and  
disposal of  
proceeds

**17.** If it is proved by an affidavit sworn before a justice of the peace that the proper notices had been duly posted and published, then, if the owner or some one for him does not, before the sale of the animal, replevy or redeem it, the poundkeeper who impounded it or, if the person who distrained it did not deliver it to a poundkeeper but retained it in his own possession, any poundkeeper of the municipality may publicly sell it to the highest bidder at the time and place mentioned in the notices, and, after deducting the penalty and the damages, if any, and the fees and charges, shall apply the proceeds in discharge of the value of the food and nourishment, loss of time, trouble and attendance so supplied, and of the expenses of driving or conveying and impounding or confining the animal, and of the sale and attending it, or incidental thereto, and of the damage when legally claimable, not exceeding \$20, done by it to the property of the person by whom or at whose instance it was distrained, and shall return

the surplus, if any, to its original owner, or, if not claimed by him within three months after the sale, the poundkeeper shall pay such surplus to the treasurer of the municipality. R.S.O. 1950, c. 280, s. 17.

**18.**—(1) If the owner, within forty-eight hours after the delivery of the statements provided for in section 9, disputes the amount of damages so claimed, the amount shall be decided by the majority of three fence-viewers of the municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the poundkeeper.

Disputes regarding demand for damages, how determined

(2) The fence-viewers or any two of them shall, within twenty-four hours after notice of their appointment, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the statutes or by-laws in that behalf at the time of the trespass and if it was a lawful fence, or, if the animal was one not permitted to run at large by the by-laws of the municipality, they shall appraise the damages committed, and, within twenty-four hours after having made the view, shall deliver to the poundkeeper a written statement signed by at least two of them of their appraisal and of their lawful fees and charges.

Fence-viewers to view and appraise damage

(3) If, in the case of an animal permitted to run at large, the fence-viewers decide that the fence was not a lawful one, they shall so certify in writing under their hands, together with a statement of their lawful fees to the poundkeeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof, but, if not claimed or if such fees and charges are not paid, the poundkeeper, after due notice as required by this Act, shall sell the animal in the manner before mentioned at the time and place appointed in the notices. R.S.O. 1950, c. 280, s. 18.

Where fence not lawful

**19.** If a poundkeeper or person who impounds or confines, or causes to be impounded or confined, an animal refuses or neglects to provide and supply it with good and sufficient food, water and shelter, he is guilty of an offence and on summary conviction is liable to a fine, for every day during which he is so in default, of not less than \$1 and not more than \$4. R.S.O. 1950, c. 280, s. 19.

Offence

**20.** Every fence-viewer who neglects his duty under this Act is guilty of an offence and on summary conviction is liable to a fine of \$2. R.S.O. 1950, c. 280, s. 20.

Idem

Statement  
to be filed  
with clerk

**21.** Every poundkeeper and every person who distrains an animal under section 10 shall, on or before the 15th day of January in every year, file with the clerk of the municipality a statement for the year ending on the 31st day of December next preceding showing,

- (a) the number of animals impounded or distrained, as the case may be;
- (b) the number of animals sold and the amounts received;
- (c) the sum received as poundage fees and cost of keep by the poundkeeper or party distraining;
- (d) the damages paid by any party;
- (e) all disbursements and to whom paid;
- (f) any receipts and expenditures in connection therewith. R.S.O. 1950, c. 280, s. 21.

Certifying  
statement

**22.** The statement shall be certified to by the poundkeeper or the person distraining as a true and accurate statement. R.S.O. 1950, c. 280, s. 22.

Offence

**23.** Every poundkeeper or other person required to file such return, who neglects or refuses to file it on or before the 15th day of January in any year, is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1950, c. 280, s. 23.

Disposition  
of fines

**24.** One-half of every fine recovered under this Act shall be paid to the treasurer of the local municipality in which the offence was committed and one-half to the private prosecutor, but, where the information is laid by an officer of the municipality, the whole of the fine is payable to the treasurer. R.S.O. 1950, c. 280, s. 24.

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## CHAPTER 300

## The Power Commission Act

1. In this Act, unless the contrary intention appears, Interpre-  
tation
- (a) "advisory council" means The Ontario Hydro-Electric Advisory Council;
  - (b) "Commission" means The Hydro-Electric Power Commission of Ontario;
  - (c) "land" means real property of whatsoever nature or kind, and includes tenements, hereditaments and appurtenances, and any estate, term, easement, right or interest in, to, over, under or affecting land;
  - (d) "owner" includes a mortgagee, lessee, tenant, occupant and any other person entitled to a limited estate or interest in land and a guardian, committee, executor, administrator or trustee in whom land is vested;
  - (e) "power" includes electrical, pneumatic, hydraulic, mechanical, nuclear, steam, gas or other power and also includes energy;
  - (f) "supply" includes delivery, dealing in, and sale;
  - (g) "works" includes all roads, plant, machinery, buildings, erections, constructions, installations, materials, devices, fittings, apparatus, appliances, equipment and other property for the development, generation, transformation, transmission, conveying, distribution, supply or use of power;
  - (h) if a power is conferred or a duty imposed on the Commission, the power may be exercised and the duty shall be performed from time to time as occasion requires. R.S.O. 1950, c. 281, s. 1; 1955, c. 62, s. 1, *amended*.

## PART I

## THE COMMISSION

2.—(1) The Commission shall continue to be a body corporate, and shall consist of not less than three and not more than six persons appointed by the Lieutenant Governor in Commission

Council, two of whom may be members, and one of whom shall be a member, of the Executive Council. R.S.O. 1950, c. 281, s. 2 (1); 1955, c. 62, s. 2 (1).

**Quorum**

(2) Two members of the Commission, of whom one shall be the chairman or a vice-chairman, constitute a quorum. 1955, c. 62, s. 2 (2).

**Chairman**

**3.**—(1) The Lieutenant Governor in Council may appoint one of the members of the Commission to be chairman and may appoint two other members of the Commission to be vice-chairmen of the Commission. R.S.O. 1950, c. 281, s. 3 (1); 1955, c. 62, s. 3 (1).

**Powers of vice-chairman**

(2) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman. R.S.O. 1950, c. 281, s. 3 (2); 1955, c. 62, s. 3 (2).

**Tenure of office**

**4.** Every person appointed to the Commission shall hold office during pleasure, and the Lieutenant Governor in Council, upon the death, resignation or removal from office of any member of the Commission, may appoint some other person in his place. R.S.O. 1950, c. 281, s. 4.

**Remuneration of Commissioners**

**5.**—(1) The chairman, vice-chairmen and other members of the Commission shall receive such sums annually for their service as are determined by the Lieutenant Governor in Council, and such sums shall be deemed to be part of the administration expenses of the Commission. 1955, c. 62, s. 4.

**Seat in Assembly not vacated**  
R.S.O. 1960, c. 208

(2) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of any member of the Commission, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor does he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1950, c. 281, s. 5 (2).

**Executive committee**

**6.**—(1) The chairman and two vice-chairmen are the chief executive officers of the Commission and constitute an executive committee charged with the direction and control of the business of the Commission and it may exercise all of the powers of the Commission in its name, including, but without limiting the generality of the foregoing, all of the powers of the Commission under sections 55 and 58, and may delegate such powers as it sees fit to any of the other members of the Commission.

(2) The powers of the executive committee may be exercised <sup>Quorum</sup> by a majority of the committee. 1955, c. 62, s. 5.

7.—(1) The Commission may appoint and employ upon <sup>Officers and</sup> such terms of employment as it deems desirable a general <sup>employees</sup> manager, chief engineer, secretary and such other officers and employees as it deems requisite.

(2) The salaries, remuneration and expenses of persons <sup>Apportion-</sup> appointed or employed by the Commission, as well as any <sup>ment of</sup> other expenses of the Commission, shall be apportioned by the <sup>salaries and</sup> Commission among, and are chargeable to, the various works <sup>expenses</sup> and undertakings carried on by the Commission upon which such persons are employed, but any portion of such salaries, remuneration and expenses that are not properly chargeable to such works or undertakings and that are earned or incurred in the performance of work or services other than those rendered in respect of works or undertakings of the Commission under contract with municipal corporations are chargeable to and payable out of such moneys as are appropriated for that purpose by the Legislature.

(3) Any expenditure heretofore or hereafter incurred by the <sup>Certain</sup> Commission, <sup>expenditures</sup>

- (a) for works or services in carrying out the directions of <sup>to be</sup> the Lieutenant Governor in Council or for which the <sup>included as</sup> Commission has had other proper authority and <sup>part of cost</sup> that has not already been included in the cost of <sup>of supplying</sup> power to municipal corporations under contract with <sup>power</sup> the Commission but that, in the opinion of the Commission, has proved or may ultimately prove beneficial to municipal corporations under contract with the Commission for a supply of power, or to municipal corporations that may from time to time thereafter enter into such contracts;
- (b) deemed necessary or desirable by the Commission in the interests of municipal corporations then or that may thereafter be under contract with the Commission for a supply of power, in carrying on, promoting or extending the operations of the Commission in connection with the generation, distribution or supply of power or for any work or service deemed by the Commission incidental thereto,

may be included by the Commission as part of the cost of supplying power to any of such municipalities and shall be apportioned by the Commission as provided in this section and section 78.



Apportionment to be final

(4) The apportionment by the Commission of such salaries, remuneration and expenses is final.

No action against Commission without consent of Attorney General

(5) Without the consent of the Attorney General no action of any kind whatsoever shall be brought against the Commission, and without the consent of the Attorney General no action of any kind whatsoever shall be brought against any member of the Commission for anything done or omitted by him in the exercise of his office.

Non-liability for errors in estimates, plans, etc.

(6) Neither the Province nor the Commission nor any member thereof shall incur any liability by reason of any error or omission in any estimate, plan or specification prepared or furnished by the Commission. R.S.O. 1950, c. 281, s. 6.

Advisory Council

8.—(1) The Ontario Hydro-Electric Advisory Council shall consist of not more than nine members appointed by the Lieutenant Governor in Council each of whom shall hold office for two years from the date of his appointment or such other period as the Lieutenant Governor in Council prescribes and every such member is eligible for reappointment. R.S.O. 1950, c. 281, s. 7 (1); 1951, c. 67, s. 1 (1).

Presiding officer

(2) The members of the advisory council shall elect from among themselves a presiding officer whose term of office shall be one year, and who is eligible for re-election.

Meetings

(3) The advisory council shall meet on the call of its presiding officer on three days written notice, and also whenever requested to do so by the Commission on similar notice.

Reports

(4) The advisory council shall make a report for the consideration and assistance of the Commission upon every matter submitted to it by the Commission and upon any matter relative to the purposes of the Commission upon which the members of the advisory council deem it advisable to report. R.S.O. 1950, c. 281, s. 7 (2-4).

Remuneration

(5) The members of the advisory council shall be paid such per diem allowance and travelling expenses as the Lieutenant Governor in Council from time to time decides and the cost thereof shall be deemed to be part of the administration expenses of the Commission. R.S.O. 1950, c. 281, s. 7 (5); 1951, c. 67, s. 1 (2).

Assistance

(6) The Commission may provide the advisory council with such professional, technical, secretarial and other assistance as the Commission sees fit, and the cost thereof shall be deemed to be part of the administration expenses of the Commission.

Unqualified persons

(7) No senator or member of the House of Commons of Canada, and no member of the Assembly, and no person not

entitled to vote at the election of members of the Assembly is eligible to be a member of the advisory council.

(8) The Lieutenant Governor in Council may terminate the appointment of any member who in his opinion is incapable of performing his duties. <sup>Termination of appointment</sup>

(9) The advisory council may act notwithstanding any vacancy in its membership and three members constitute a quorum at any meeting. R.S.O. 1950, c. 281, s. 7 (6-9). <sup>Council may act notwithstanding vacancy</sup>

**9.** The fiscal year of the Commission is the period from the 1st day of January to the 31st day of December in the same year. R.S.O. 1950, c. 281, s. 8. <sup>Fiscal year</sup>

**10.—(1)** The Commission shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Commission. <sup>Annual report</sup>

(2) The annual report shall be signed by the chairman or a vice-chairman of the Commission. <sup>Signing of report</sup>

(3) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 281, s. 9. <sup>Tabling of report</sup>

**11.—(1)** The accounts of the Commission shall, upon the direction of the Lieutenant Governor in Council, be from time to time, and at least once every year, audited and reported upon by an auditor or auditors named in the direction of the Lieutenant Governor in Council. <sup>Audit of accounts</sup>

(2) The expenses of such audits shall be fixed by the Commission, with the approval of the Lieutenant Governor in Council, and are payable by the Commission as part of the costs of administration of the Commission. R.S.O. 1950, c. 281, s. 10. <sup>Expenses of audits</sup>

**12.** The income of the Commission shall be applied by the Commission, <sup>Application of income of Commission</sup>

- (a) to meet its necessary operating expenses;
- (b) to the preservation, improvement, supervision, depreciation, repair, maintenance and insurance of its works;
- (c) to the payment of the remuneration and expenses of the commissioners and the officers and others employed by the Commission;

- (d) for the operations of the Commission under sections 59 and 72 and to meet obligations, charges and expenses arising from time to time in the course of such operations;
- (e) to meet interest expense and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;
- (f) to provide reserves authorized by sections 14, 15, 16 and 17; and
- (g) to such other purposes as are authorized or required by this Act. R.S.O. 1950, c. 281, s. 11, *amended*.

**General fund**

**13.** All special funds and the income and revenue thereof and all moneys and revenues that now are in or hereafter come into the hands of the Commission, whether as agent, trustee, owner or otherwise, form one fund to be known as the general fund, and the Commission has power to make any and all expenditures out of the general fund for the purposes and objects of the Commission without regard to the special trusts or purposes under which the general fund or any part thereof may come into its hands, and the Commission shall account for and pay out of the general fund all moneys for which it is so accountable. R.S.O. 1950, c. 281, s. 12.

**Reserve accounts**

**14.—(1)** The Commission may establish and maintain reserve accounts,

- (a) to provide for the depreciation, reconstruction and repair of works constructed or operated by the Commission;
- (b) to provide a reserve as insurance against loss or damage to any property of the Commission or loss or damage to the persons or property of others caused by or arising from the works or operations of the Commission,

and may place to the credit of such reserve accounts and expend, use, apply, utilize and appropriate therefrom for the purposes of this section such amounts as are in the opinion of the Commission sufficient for the purposes of this section. R.S.O. 1950, c. 281, s. 13 (1); 1955, c. 62, s. 6 (1, 2).

**Interest**

(2) The Commission may place to the credit of such reserve accounts interest at such rates as the Commission deems equitable and just upon the balances remaining from time to time to the credit of such reserve accounts. R.S.O. 1950, c. 281, s. 13 (2).



**15.—**(1) The frequency standardization reserve account <sup>Frequency standardization reserve</sup> may be maintained on the books of the Commission and the Commission may place to the credit of such account,

- (a) such amounts as the Commission collects under clause e of section 26;
- (b) such amounts as may be made available for the credit of this account under subsection 2 of section 72;
- (c) such additional amounts as in the opinion of the Commission are necessary for the purposes of this section;
- (d) interest at such rates as the Commission deems equitable and just upon balances remaining from time to time to the credit of the account. R.S.O. 1950, c. 281, s. 14 (1); 1955, c. 62, s. 7.

(2) Any or all of the amounts at the credit of the frequency standardization reserve account may be used in the discretion <sup>Use of moneys</sup> of the Commission for meeting any expenditure or costs made or incurred under section 26, 28 or 29, except expenditure or costs made or incurred in respect of works held by it under section 86. R.S.O. 1950, c. 281, s. 14 (2).

**16.—**(1) The stabilization of rates and contingencies reserve account may be maintained on the books of the Commission, and the Commission may place to the credit of such <sup>Stabilization and contingencies reserve</sup> account,

- (a) such amounts as the Commission determines and collects for the purposes of this section from its customers and such other amounts as are in its opinion sufficient for the purposes of this section;
- (b) interest at such rates as the Commission deems equitable and just upon balances remaining from time to time to the credit of the account.

(2) Any or all of the moneys in the stabilization of rates <sup>Idem</sup> and contingencies reserve account may be used in the discretion of the Commission for determining, and for adjusting and apportioning, including making equitable and stabilizing, the amounts payable to the Commission by persons or municipal corporations; and to meet any expenditures or costs caused by or arising from injury to, or destruction, obsolescence or loss of use of any works or other property of the Commission; and to meet other contingencies arising in the operations of the Commission; and to provide for such part of the cost of properties to be acquired or that have been acquired as is not allocated to specific works; and to meet the costs and expenses incurred by the Commission that, in the opinion of the Commission, are for the protection or advance-

ment of the interests in the undertakings under its supervision or control and that are not properly chargeable to any person or specific municipal corporation to which the Commission supplies power. 1955, c. 62, s. 8 (1).

Sinking  
fund

**17.** The Commission shall set apart annually as a sinking fund,

- (a) such sums as are received by the Commission from municipal corporations under clause c of section 78, and section 79, and, subject to subsection 2 of section 86, such sums as are appropriated by the Commission for sinking fund purposes out of the revenues received from the supply of power under section 72 to persons within the area of a municipal corporation that has contracted with the Commission for a supply of power at cost;
- (b) such sums as are appropriated by the Commission for sinking fund purposes out of the revenues received from the supply of power in rural power districts;
- (c) such sums as are appropriated by the Commission for sinking fund purposes for the repayment of any indebtedness incurred or assumed by the Commission in respect of the cost of administrative service buildings and equipment, and for the restoration of any reserve or other funds of the Commission utilized for the payment of the cost thereof. 1960, c. 85, s. 1.

Application  
of funds  
set apart as  
sinking fund

**18.** All funds set apart by the Commission as a sinking fund under section 17 shall be used or employed,

- (a) towards repayment of advances made by the Province of Ontario to the Commission and towards the retirement of other indebtedness incurred or assumed by the Commission;
- (b) to restore reserves or other funds of the Commission utilized for the payment of the cost of works; and
- (c) to purchase and hold for sinking fund purposes securities in which the Commission is authorized to invest under section 20. R.S.O. 1950, c. 281, s. 18; 1951, c. 67, s. 2.

Postpone-  
ment of  
sinking fund  
collection

**19.—(1)** The Lieutenant Governor in Council may authorize the Commission to postpone the collection or setting apart of any sums on sinking fund account to provide for the cost of any works newly constructed, acquired or performed for such period, not exceeding ten years, as is deemed advisable.

(2) For the purposes of this section, "works", in addition to the meaning given to it in section 1, includes preliminary reports, surveys, investigations, engineering, accounting or organization work or service, or any other work or service in connection with or incidental to any proposed construction or development. R.S.O. 1950, c. 281, s. 19.

**20.** The Commission may, in its discretion, invest any funds not required in carrying out its objects in the debentures or other securities of Canada or of Ontario, or in securities guaranteed as to principal and interest by either of them. R.S.O. 1950, c. 281, s. 16.

**21.—(1)** The Pension and Insurance Fund of The Hydro-Electric Power Commission of Ontario, in this section called the "fund", is continued for the payment of benefits by way of pensions or superannuation allowances to, or allowances upon the death or disability of, such employees of the Commission as the Commission determines in accordance with this section and any regulations made under this section, and for the purposes of this section "employee" includes any person in the employ of the Commission on or after the 1st day of November, 1947.

(2) The fund shall consist of the moneys, securities and other assets in or credited to the fund in accordance with law and such amounts as are contributed thereto by the Commission and its employees.

(3) The contributions of the employees towards the cost of the benefits mentioned in subsection 1 shall be as prescribed by the regulations made under this section and be paid into the fund in accordance therewith.

(4) The Commission shall contribute towards the cost of the benefits mentioned in subsection 1 the amount of the difference between the amount of the contributions of the employees and the amount of the cost of the benefits as determined by actuarial valuations.

(5) The Commission may enter into agreement with one or more insurers licensed under *The Insurance Act*, for,

(a) providing insurance by way of death or disability benefits for such employees of the Commission as the Commission determines in accordance with this section and any regulations made under this section; and

(b) payment by the Commission of the cost of the benefits mentioned in clause a,

and the cost referred to in clause b shall be charged by the Commission against the fund.



## Regulations

(6) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations,

- (a) establishing The Pension and Insurance Plan of The Hydro-Electric Power Commission of Ontario, in this section called the "plan";
- (b) prescribing the class or classes of employees who are eligible to be members of the plan, the time at which membership shall commence, and the period of time thereafter within which an employee may elect not to be a member of the plan;
- (c) providing for the payment out of the fund of the contributions made by any employee to the fund or to either of the funds superseded by the fund where the employee elects not to be a member of the plan;
- (d) prescribing the period of employment with the Commission alone, or with a previous employer and the Commission, that constitutes service for the purpose of determining pension benefits;
- (e) prescribing the persons who may receive benefits under the plan;
- (f) prescribing the contributions to the fund by employees and the rate or rates at which interest shall be calculated when payments are made out of the fund of any such contributions and of any contributions to either of the funds superseded by the fund;
- (g) prescribing the amount for which any employee or pensioner shall be insured from time to time;
- (h) prescribing the payments to be made from the fund, or by an insurer, upon
  - (i) termination of employment,
  - (ii) retirement from employment on pension,
  - (iii) disability, or
  - (iv) death,

and the terms and conditions upon which, and the person or persons to whom, such payments shall be made;

- (i) providing for payment out of the fund of the cost of any benefits provided under any agreement referred to in subsection 5;
- (j) prescribing the intervals of time within which an actuarial valuation of the fund shall be made;

- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this section. R.S.O. 1950, c. 281, s. 20 (1-6).

(7) The fund shall be maintained and administered by the Commission and the cost to the Commission of maintaining and administering it shall be deemed to be part of the cost of the administration of the Commission and is chargeable accordingly and such fund may be invested in investments authorized by section 208 of *The Corporations Act* for joint stock insurance companies. R.S.O. 1950, c. 281, s. 20 (7); 1960, c. 85, s. 2.

Cost to Commission chargeable to administration  
R.S.O. 1960, c. 71

(8) The interest of any person in the fund or in any benefit payable therefrom is not subject to garnishment, attachment or seizure or any legal process and is not assignable. R.S.O. 1950, c. 281, s. 20 (8).

No attachment, etc.

**22.** The Commission, with the approval of the Lieutenant Governor in Council, may enter into agreement with any municipal corporation receiving power from the Commission for including in the fund mentioned in section 21 employees of any commission established under *The Public Utilities Act*, or under this Act, for the management and control of works for the distribution of power in the municipality, upon such terms as to the contribution by the municipal corporation and otherwise as is deemed expedient. R.S.O. 1950, c. 281, s. 21.

Municipal employees may be included in fund  
R.S.O. 1960, c. 336

#### REPORT ON WATER POWERS

**23.** Whenever required by the Lieutenant Governor in Council, the Commission shall inquire into, examine and investigate water powers or water privileges in Ontario and report upon the value and capacity thereof, with such other information as the Lieutenant Governor in Council requires. R.S.O. 1950, c. 281, s. 22.

Commission to report on water powers, etc.

#### ACQUISITION OF PROPERTIES

**24.—(1)** The Lieutenant Governor in Council may authorize the Commission at any time and from time to time to acquire by purchase, lease, or in any other manner, or without the consent of the owner thereof to enter upon, take possession of, expropriate and use, any land, lake, river, stream or other body of water or watercourse, and temporarily or permanently to divert or alter the boundaries or course of any lake, river, stream or other body of water or watercourse, or raise or lower the level of the same or flood or overflow any land.

Power may be given to Commission

(2) In particular, but without limiting the generality of subsection 1, the Lieutenant Governor in Council, upon the

Power may be given to Commission

recommendation of the Commission, may authorize the Commission to,

to acquire  
lands,  
waters,  
powers and  
works

- (a) acquire by purchase, lease or otherwise, land, waters, water privileges, water powers, buildings and works used for, or adapted or useful for, or capable of being used or made useful for generating, transforming, transmitting, distributing or selling power; enter upon, take possession of, expropriate, acquire and use any such land, waters, water privileges, water powers, buildings and works without the consent of the owner thereof, or of any person in any manner entitled to any right, title, interest, claim or demand thereto or therein; and have and hold them however acquired or obtained, and develop, utilize, use, maintain, operate and improve them for any of the purposes of this Act;

to acquire  
assets and  
undertaking  
of com-  
panies

- (b) acquire by purchase the whole or any part of the property, assets and undertaking of any corporation engaged in the production or sale of power, including shares held or owned by the corporation in any other company or companies of any kind or nature whatsoever, and to acquire the whole or any part of the properties, assets and undertakings of such other company or companies and to hold, develop, utilize, use, maintain, operate and improve any property or properties so acquired;

to acquire  
and con-  
struct works  
for produc-  
tion and use  
of power

- (c) generate and produce power at places in Ontario by the use of water, coal, steam or oil, or by any other means, and transform, transmit, make available for use, distribute, deliver, sell, supply and generally use for the purposes of the Commission such power and connect the works constructed or installed for these purposes with any other power works and with any system;

to acquire  
and use real  
and personal  
property for  
the genera-  
tion and use  
of power

- (d) for the purposes of clause c acquire by purchase, lease or otherwise, hold, improve and use real and personal property, acquire by purchase or otherwise water, coal, steam, oil and other supplies, and construct, maintain and operate works, including without limiting the generality of the foregoing, development works, generating plants, transformer stations, transmission lines, switching and regulating works, distribution lines, access and other roads, and all other equipment, plant and works and things required for or incidental to any of such purposes;

to acquire  
works on  
provincial  
boundaries

- (e) acquire by purchase, lease or otherwise, lands, works, waters, water privileges and water powers upon or



adjacent to the boundary line between Ontario and any other province and situate in Ontario, or in such other province, or partly in one and partly in the other of them, and erect, construct, maintain and operate upon any lands so acquired, works for the generation, transformation and transmission of power, and enter into agreements with the Crown in right of such other province or with any commission appointed by the Lieutenant Governor in Council of such other province or otherwise lawfully appointed or any other person interested in or affected by such works as to the terms and conditions upon which such works shall be constructed and operated and any rights so acquired be exercised;

- (f) acquire by purchase in the open market or otherwise shares or stock of any company owning or controlling any such lands, waters, water privileges, water powers or works; to acquire shares in companies operating on such boundaries
- (g) construct, maintain and operate, and acquire by purchase, lease or otherwise, or without the consent of the owner thereof or of any person interested therein, enter upon, take possession of, expropriate and use all erections, machinery, plant and other works and appliances for the transmission, transformation, supply and distribution of power, and conduct, store, transmit, transform and supply power for the purposes of this Act, and with lines of wires, poles, conduits, pipes, motors, transformers or other conductors, equipment or devices, receive, conduct, convey, transmit, transform, distribute, supply or furnish such power to or from or for any person at any place, through, over, under, along, upon or across any land, public highway or public place, stream, water, watercourse, bridge, viaduct or railway, and through, over, upon or under the land of any person; to acquire plant for transmitting and transforming power
- (h) contract with any person generating, transmitting or distributing power, or proposing so to do, to supply power to the Commission, and require any person generating, transmitting or distributing power to supply so much thereof as the Commission requires; to contract for supply of power to Commission
- (i) enter upon, take and use, without the consent of the owner thereof, any land upon which any water power or privilege is situate, or any lake, river, stream or other body of water that, in the opinion of the Commission, is capable of improvement or development for the purpose of providing water power, and construct such dams, sluices, canals, to flood lands and improve water powers

raceways and other works as are deemed proper or expedient for such purposes, and flood and overflow any land to the extent to which the Commission deems necessary for the purpose of providing storage of the water or for any other purpose in connection with such works, and contract with any municipal corporation, company or individual for the use of any of the improvements or works so made, on such terms and conditions as are agreed upon;

to acquire  
flooded lands  
on behalf of  
municipality

- (j) enter upon, take and use, without the consent of the owner thereof, any land that may, in the opinion of the Commission, be necessary for the full enjoyment and exercise of any water right, water privilege or improvement undertaken by the Commission or by any municipal corporation or for the relief of the municipal corporation from liability for damages for the flooding or overflowing of such lands; but subject to subsection 1 of section 42, the proceedings taken under this clause shall be at the sole expense of the municipal corporation, and the Commission may convey the lands so acquired to the municipal corporation or make such other disposition thereof with the consent of the municipal corporation as is deemed expedient;

to acquire  
distributing  
plant

- (k) acquire by purchase or expropriate any plant, machinery, appliances, wires, poles and other equipment, and the land occupied by or used in connection therewith or any part thereof, used or intended for the distribution of power in a municipality whose corporation has entered into an agreement with the Commission for the supply of power and contract for the sale and transfer to such municipal corporation of such plant, equipment and land upon such terms and for such price, not being less than the price paid by the Commission, with the expenses in connection with such purchase or expropriation added thereto, as are agreed upon;

to acquire  
shares in  
corporations

- (l) acquire from time to time by purchase in the open market or otherwise, shares or stock in or the securities of any corporation carrying on the business of developing, distributing or transmitting power and for the purposes of this Act the acquisition of such shares, or stock, or securities is an investment in works;

to acquire  
stock in  
development  
corporations

- (m) acquire by purchase or otherwise on any terms and hold shares in any corporation carrying on the business of developing, supplying or transmitting

power, and in connection with any such acquisition enter into any covenants and agreements, and pay for any such shares either in cash or in bonds, debentures or other securities of the Commission, and guarantee, or covenant or agree for or in respect of the payment or performance of any bonds, debentures, securities, contracts or obligations of any corporation shares in which are so acquired, or of any corporation shares in which are held by any corporation in which shares are so acquired, and for the purposes of this Act the acquisition of shares of such corporations shall be deemed to be an investment in works;

- (n) lease or operate the works for the generation, transmission, distribution or use of power of any person, firm or corporation on such terms as the Commission arranges with the owner. R.S.O. 1950, c. 281, s. 24 (1, 2), *amended*. to lease or operate works of others

(3) In relation to all matters authorized by the Lieutenant Governor in Council under this section, the Commission has and may exercise and enjoy, in addition to the powers conferred by this or any other Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act*, and in the application of this section, where the words "the Minister", "the Department", "Her Majesty" or "the Crown" appear in that Act, they, where the context permits, mean the Commission and where land or property is taken compulsorily by the Commission, such taking shall be deemed to be for the public purposes of Ontario. R.S.O. 1950, c. 281, s. 24 (3); 1956, c. 66, s. 1 (1). The Commission has powers of Minister of Public Works R.S.O. 1960, c. 338

(4) Upon the deposit in the proper registry or land titles office of a plan and description of the land required by the Commission, signed by its secretary or by an Ontario land surveyor, the land so described thereupon becomes and is vested in the Commission. Mode of perfecting title

(5) Except as otherwise provided in this Act, the Commission shall, in the exercise of its compulsory powers authorized by this section and section 38, proceed in the manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of Ontario, and all the provisions of that Act with respect to the fixing, payment and application of compensation apply *mutatis mutandis*. Procedure R.S.O. 1960, c. 338

(6) Where the Commission elects to have the compensation determined by the Ontario Municipal Board under section 28 of *The Public Works Act*, the Board, in addition to the powers conferred upon it by that section, and by *The* Powers of Board R.S.O. 1960, cc. 338, 274



*Ontario Municipal Board Act*, has the power, upon the application of the Commission or the owner, to direct the filing and serving of pleadings, and particulars thereof, and to direct discovery and production as in actions in the Supreme Court, and in accordance with the rules of practice in that behalf.

Authoriza-  
tions may be  
retroactive

(7) The Lieutenant Governor in Council may direct that any authorization to the Commission heretofore or hereafter given be retroactive, in which case the authorization shall be deemed to have taken effect from the time so fixed.

Exercise of  
powers not  
to be  
enjoined, etc.

(8) No act or proceeding of the Commission pursuant to any authorization of the Lieutenant Governor in Council under this section shall be restrained by injunction or other process or proceeding in any court. R.S.O. 1950, c. 281, s. 24 (4-8).

R.S.O. 1960,  
c. 349 not  
to apply

(9) *The Regulations Act* does not apply to any authorization by the Lieutenant Governor in Council under this section. 1956, c. 66, s. 1 (2).

Change of  
frequency

**25.** Subject to the approval of the Lieutenant Governor in Council and notwithstanding any agreement between the Commission and any person, the Commission may change the periodicity in alternations of current at which it supplies power to any person. R.S.O. 1950, c. 281, s. 25.

Powers of  
Commission  
on frequency  
change-over

**26.** Subject to the approval of the Lieutenant Governor in Council, the Commission may,

- (a) for the purposes of standardizing and making uniform the periodicity in alternations of current at which it supplies power, alter, reconstruct, rebuild, reassemble, construct, extend, replace or do whatever else may be necessary in respect of its works, works held by it under section 86, works held by it in trust for Her Majesty in right of Ontario under sections 64 and 65 and, with their consent, works wherever situate of other persons who are supplying or purchasing or otherwise delivering or accepting delivery of power to or from the Commission;
- (b) for the purposes of standardizing and making uniform the periodicity in alternations of current at which power generated or procured by it is utilized and with the consent of the owner, alter, reconstruct, rebuild, reassemble, construct, extend, replace or do whatever else may be necessary in respect of the equipment, apparatus, appliances, devices and works of any person by which such power is taken and used, except meters of any municipal corporation

or commission or the equipment, apparatus, appliances, devices or works of any municipal corporation or commission used for distribution stations or distribution or street lighting systems;

- (c) bear the expense of anything done under clause *a*;
- (d) bear the expense of anything done under clause *b* to the equipment, apparatus, appliances, devices or works of commercial lighting consumers, or domestic or rural consumers other than rural power consumers;
- (e) charge to and collect from the owners of equipment, apparatus, appliances, devices or works other than the equipment, apparatus, appliances, devices or works mentioned in clause *d* the expense of anything done thereto under clause *b* to the extent approved by the Lieutenant Governor in Council and bear the balance of such expense. R.S.O. 1950, c. 281, s. 26; 1957, c. 93, s. 1.

**27.**—(1) The powers of the Commission under clause *b* of section 26 with respect to the equipment, apparatus, appliances, devices and works of any person to whom a municipal corporation or commission supplies power that is supplied to it by the Commission may, with the assent of the Commission, be exercised by the municipal corporation or commission. Frequency standardization by municipal palities

(2) Where pursuant to subsection 1 the powers are exercised by a municipal corporation or commission in respect of the equipment, apparatus, appliances, devices or works mentioned in clause *d* of section 26, the Commission may bear the expense thereof. Where Commission may bear cost

(3) Where under subsection 1 the powers are exercised by a municipal corporation or commission in respect of equipment, apparatus, appliances, devices or works other than those mentioned in clause *d* of section 26, such portion of the expense as the Commission could have charged to and collected from owners of the equipment, apparatus, appliances, devices or works if the Commission had exercised the powers itself, may, with the assent of the Commission, be charged to and collected from the owners by the municipal corporation or commission and the balance borne by the Commission. 1951, c. 67, s. 3. Where cost may be apportioned

**28.** The Commission may do whatever will in its opinion effect a reduction in the cost of anything done or to be done under clause *a* or *b* of section 26. R.S.O. 1950, c. 281, s. 27. Reduction of cost of frequency change-over

Change  
made by  
owner

**29.** Where the owner of any equipment, apparatus, appliances, devices or works by which is utilized power generated or procured by the Commission changes them with the approval of the Commission in order to take the power at a changed periodicity in alternations in current, the Commission may bear the expense of the change to the same extent as if it had effected the change itself under clause *b* of section 26. R.S.O. 1950, c. 281, s. 28.

Ownership  
of replaced  
equipment

**30.** Equipment, apparatus, appliances, devices or works, or any part thereof, replaced by the Commission under clause *b* of section 26 becomes the property of the Commission. R.S.O. 1950, c. 281, s. 29.

Conversion  
not a breach  
of contract

**31.** Nothing done under section 25 shall be deemed to be a breach of contract by the Commission or entitles any person to rescind any agreement or release any guarantor from the performance of his obligation. R.S.O. 1950, c. 281, s. 30.

Limitation  
of actions  
arising from  
frequency  
change-over

**32.—**(1) No action shall be brought against any person in respect of anything done under section 25, 26, 27 or 28 after the expiration of one year commencing on the date when the cause of action arose.

Notice of  
claim

(2) No action shall be brought against any person in respect of anything done under section 25, 26, 27 or 28 unless notice in writing of the claim has been served upon or sent by registered mail to such person within ninety days after the cause of action arose.

No right  
of action  
in certain  
cases

(3) No action shall be brought against any person, and no person is liable for loss of use of anything, or loss of production of or by anything, or loss of profits by reason of anything done under section 25, 26, 27 or 28.

Saving

(4) Subsections 1 and 2 do not apply to any action between the Commission and any person arising from any agreement between the Commission and such person for the doing by such person for the Commission of anything under section 25, 26, 27 or 28. R.S.O. 1950, c. 281, s. 31.

Mode of  
exercising  
and extent  
of powers

**33.—**(1) Notwithstanding anything in this or any other Act, whenever the Commission has been authorized by the Lieutenant Governor in Council to exercise any of its powers with respect to conducting, conveying, transmitting, distributing, supplying, furnishing or delivering power, it may proceed under the following provisions of this section.

Commission  
may enter,  
etc., without  
notice

(2) The Commission may, without notice or without the deposit of any plan or description or any prerequisite or preliminary action or formality, and with or without the consent



of the owner thereof, enter upon, take possession of and use for such time as the Commission deems desirable any land that the Commission deems to be required for the due exercise of any of its powers with respect to conducting, conveying, transmitting, distributing, supplying, furnishing or delivering of power, and may construct upon the land any works requisite for any such purpose. 1956, c. 66, s. 3 (1).

(3) Compensation shall be made to the owner for the land taken or used and for all damage to property resulting from the exercise of the said powers, and in fixing such compensation regard shall be had to the value of the land taken, or to the nature and extent of the estate, right, privilege, easement, or interest that the Commission decides to take and acquire in, over, upon or in respect of the land, as the case may be, and the compensation shall be based thereon. <sup>Compensation</sup>

(4) Where the amount of the compensation has been agreed upon or fixed or otherwise determined, the provisions of *The Public Works Act* as to the payment or other disposition and application of the compensation or money payable in respect of the land, right or easement taken by the Commission apply *mutatis mutandis*. R.S.O. 1950, c. 281, s. 32 (3, 4). <sup>How far  
R.S.O. 1960,  
c. 338,  
to apply</sup>

(5) The Lieutenant Governor in Council may from time to time appoint a board of valuation consisting of as many members as he from time to time determines, one of whom shall be named chairman, who shall receive their reasonable and necessary travelling and other expenses and such fees as may be fixed by the Lieutenant Governor in Council, and the same shall be paid by the Commission as part of its general administration expense, and, when no agreement is arrived at as to the amount of compensation to be paid to the owner, the board of valuation shall, as soon as conveniently may be after a request to them either from the owner or the Commission, secure from the Commission a description of the land, right or easement that the Commission requires or has taken from the owner and make such inquiries and inspection and procure such expert advice as they may think desirable and in accordance with subsection 3 fix and determine the compensation to be paid for such land, right or easement, or property damage, and notify by registered mail the owner and the Commission of such findings, and three members of the board of valuation shall form a quorum and be sufficient for the exercise of all the jurisdiction and powers of the board. 1960, c. 85, s. 4 (1). <sup>Appointment  
and powers  
of board of  
valuation</sup>

(6) Either the owner or the Commission, if dissatisfied with the amount of the compensation so fixed, may appeal within sixty days after the mailing of the notice of finding by the board of valuation by giving notice to the other that <sup>Appeal from  
valuator</sup>

an appeal is desired. R.S.O. 1950, c. 281, s. 32 (6); 1960, c. 85, s. 4 (2).

Who to hear  
appeals

(7) An appeal from the board of valuation shall be heard and determined by the Ontario Municipal Board or a member thereof, provided however that the Lieutenant Governor in Council may from time to time designate a judge of the Supreme Court or a judge of a county or district court to hear and dispose of any such appeal or appeals, and where the Commission gives notice to the owner that an appeal is to be determined by a judge instead of by the Board or a member thereof, the judge designated shall hear and determine such appeal, and if a judge is so designated he shall receive his reasonable and necessary travelling expenses and such fee as is fixed from time to time by the Lieutenant Governor in Council and the same shall be paid by the Commission as part of its general administration expense. R.S.O. 1950, c. 281, s. 32 (7); 1960, c. 85, s. 4 (3).

Powers of  
judge or  
Board on  
appeal

R.S.O. 1960,  
c. 274

(8) The judge or Board or member thereof, as the case may be, shall appoint such time and place and give such notice of the hearing of appeals as is thought proper and most convenient and the judge or Board or member thereof has for the purposes of this section all the powers that are conferred upon the Ontario Municipal Board by sections 34 and 37 of *The Ontario Municipal Board Act* and the provisions of that Act with respect to procedure and the enforcement of orders made thereunder from time to time apply *mutatis mutandis*. R.S.O. 1950, c. 281, s. 32 (8).

Costs of  
appeal

(9) In the notice of appeal the appellant shall set out the amount that the appellant deems proper to have been fixed by the board of valuation and if, where the owner is the appellant, he fails to recover anything more than the amount fixed by the board of valuation, or if, where the Commission is the appellant, it fails to have the amount so fixed reduced, then the costs of the proceedings as between party and party are payable by the appellant, and if, under this subsection, the costs are payable to the Commission, they may be deducted from the compensation payable. R.S.O. 1950, c. 281, s. 32 (9); 1960, c. 85, s. 4 (4).

Scale of  
costs

(10) The costs of the proceedings may be fixed by the judge or Board or member thereof at such amount as is deemed proper, due regard being had to the difference between the amount fixed by the board of valuation and the amount awarded by the judge or Board or member thereof, or may be directed to be taxed upon the scale of the division, county or Supreme Court scale, as the case may be, and, if it appears on such appeal that the claim to compensation put forward by the owner is grossly excessive, and the expense of the Com-

mission has been thereby increased, the judge or Board or member thereof may fix and allow to the Commission by way of set-off against such costs as are awarded to the owner hereunder, the amount of such excess expense. R.S.O. 1950, c. 281, s. 32 (10); 1960, c. 85, s. 4 (5).

(11) The owner shall, upon reasonable notice which, if written, may be given by mailing it by registered mail addressed to him at his last known place of residence, attend at a place to be fixed by the Commission and execute such necessary instruments or documents as the Commission requires upon tender to him of the Commission's cheque for the amount awarded by the judge or Board or member thereof or fixed by the board of valuation, and costs, if any, less such costs as have been awarded against him, and in the event of his failing to attend and execute such instruments or documents, or if for any reason the Commission deems it desirable, the Commission may file in the proper registry office or land titles office a plan and description of the land, right or easement so taken, signed by the secretary of the Commission or by an Ontario land surveyor, and thereupon such land, right or easement becomes vested in the Commission. R.S.O. 1950, c. 281, s. 32 (11); 1956, c. 66, s. 3 (2); 1960, c. 85, s. 4 (6).

**34.—**(1) In cases under section 33, either the Commission or the owner may, subject to subsection 2 of section 36, appeal to the Court of Appeal from the order of the judge or the Board or member thereof, and, in all other cases, either the Commission or the owner may appeal to the Court of Appeal from the order of the judge or the Board, as the case may be.

(2) Where the appeal is taken under subsection 1, section 95 of *The Ontario Municipal Board Act* as to appeals from the Board applies. R.S.O. 1950, c. 281, s. 33. R.S.O. 1960, c. 274 to apply

**35.** The powers conferred upon the Commission by or under this Act include the right to enter upon any land upon either side of the right of way acquired for the transmission or distribution lines or works of the Commission, or upon any land upon either side of such lines or works, and to fell or remove any trees or branches thereof or any other obstruction upon any such land or upon any public highway or place that, in the opinion of the Commission, it is necessary to fell or remove, but subject always to the payment of compensation as provided in section 33, and section 33 applies to the exercise of the powers mentioned in this section, but where the lines or works of the Commission are situate upon a highway, whether it be the King's Highway or any other highway, compensation is payable only to the extent to which it is



R.S.O. 1960,  
c. 249

payable by a municipality for felling or removing trees or branches thereof under section 473 of *The Municipal Act*. R.S.O. 1950, c. 281, s. 34.

Owner to  
give notice  
of crop  
damage

**36.**—(1) Notwithstanding section 33, where a claim is made against the Commission for damage to crops, gardens, shrubs, trees or other growing things, caused by or incidental to the construction, maintenance or repair of poles, wires, towers or works included in or connected with power transmission lines, notice of the claim shall be given in writing, signed by the claimant at as early a date as possible, so that the nature, character, extent and evidence of the damage may still be apparent, and in any case not later than sixty days after the cause for complaint arose. R.S.O. 1950, c. 281, s. 35 (1).

Effect of  
failure to  
give notice

(2) If a claim is made after the time limited by subsection 1 and the claimant failed to give the notice therein required, either the Commission or the owner may, notwithstanding such failure, request the board of valuation to attend and investigate the damage complained of, and the board of valuation, if satisfied that there was reasonable excuse for the failure to give or the insufficiency of the notice and that the Commission was not thereby prejudiced, may award such compensation as appears to him to be just, and in that event the finding of the board of valuation is final and binding upon the owner and the Commission. R.S.O. 1950, c. 281, s. 35 (2); 1960, c. 85, s. 5.

Powers of  
Commission  
as to lines  
on highways

**37.** In the exercise of the powers conferred and in carrying out any work authorized by this Act or any other general or special Act, the Commission has and always has had authority to put down, carry, construct, erect and maintain such conduits, wires, poles, towers and other equipment and works used in the generation, transmission or distribution of power as it deems necessary or desirable, under, along, across or upon any public street or highway and to remove or replace them without taking any of the proceedings prescribed by this Act for the taking of land without the consent of its owner, and the provisions of this Act with regard to compensation for lands so taken do not apply, but the location of any such conduits, wires, poles, towers, equipment or works to be put down, carried, constructed or erected under, along, across or upon a public street or highway shall be agreed upon by the Commission and the municipal corporation or other authority having control of the public street or highway, and in case of disagreement shall be determined by the Ontario Municipal Board. R.S.O. 1950, c. 281, s. 36; 1952, c. 77, s. 1.

Buildings

**38.**—(1) The Commission may expropriate, purchase, lease or otherwise acquire lands that the Commission deems neces-

sary for office, service, or other buildings and may erect thereon such buildings and works as the Commission requires for its purposes.

(2) All expenditures by the Commission for the purposes mentioned in subsection 1 are repayable to the Commission by the municipal corporations having contracts with the Commission, and shall be repaid by annual sums sufficient to form in forty years a sinking fund for the repayment of the cost thereof. R.S.O. 1950, c. 281, s. 38.

**39.**—(1) The Commission, upon such terms as it deems proper, may lease, sell or otherwise dispose of to a municipal corporation or commission any works or any interest therein that the Commission is or has been using and that it deems advisable to so dispose of.

(2) The Commission may acquire from a municipal corporation or commission by purchase, lease or otherwise, upon such terms as the Commission deems proper, any works or other property, real or personal, that the Commission deems advisable for its purposes and such municipal corporation or commission may lease, sell or otherwise dispose of such works or other property to the Commission without the assent of the electors or the approval of the Ontario Municipal Board required by section 37 of *The Public Utilities Act*, but otherwise such municipal corporation or commission shall comply with that section.

(3) The Commission, upon such terms as it deems proper, may contract with any corporation, firm or person for joint ownership or joint use of works or for rights to use the works of any corporation, firm or person or to permit any corporation, firm or person to use works of the Commission, and for the purposes of this subsection, works include telephone and telegraph lines and other communication works either of the Commission or of any other corporation, firm or person in addition to the things mentioned in clause g of section 1.

(4) The Commission may, upon such terms as it deems proper, sell, lease or otherwise dispose of any property, real or personal, that it deems unnecessary for its purposes. R.S.O. 1950, c. 281, s. 39.

**40.**—(1) Where any of the compulsory powers mentioned in section 24 are exercised with respect to land and no entry on or use of the land taken has been made except for the purpose of survey or examination, the Commission, at any time before the expiration of three months from the date of the award, may, by writing under the hand of the chairman and the seal of the Commission, registered in the proper registry

or land titles office, declare that the land or any part thereof is not required and is abandoned by the Commission, and thereupon the land declared to be abandoned reverts in the person from whom it was taken, or in those entitled to claim under him.

Idem

(2) Where the land taken or any part thereof is abandoned, the person from whom it was taken is entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and where part only of the land is abandoned, the fact of such abandonment and the damages, if any, sustained in consequence of that which is abandoned having been taken and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation, and the amount of the damages shall, subject to section 33, be determined in the manner provided by *The Public Works Act*, and if a reference as to compensation is pending, shall be determined on such reference. R.S.O. 1950, c. 281, s. 40.

R.S.O. 1960,  
c. 338

Powers of  
expropri-  
ation  
1951, c. 55;  
1952  
(2nd Sess.),  
c. 3

**41.** The compulsory powers conferred by this Act or by *The Niagara Development Act, 1951* or by *The St. Lawrence Development Act, 1952 (No. 2)* extend to land, works, rights, powers, privileges and property notwithstanding anything in this Act or in any general or special Act and notwithstanding that they are or may be deemed to be devoted to a municipal or any other public use or that the owner thereof possesses the power of taking land compulsorily and notwithstanding the origin, nature or sources of the owner's title thereto, whether statutory or otherwise or the manner whereby it was acquired by the owner or by any of his predecessors in title. 1952, c. 77, s. 2; 1953, c. 82, s. 1.

Adjustment  
of propor-  
tions of cost  
of works on  
waters

**42.—(1)** Where in the exercise of the powers conferred by this Act the Commission constructs any works or improvements upon any lake, river, stream or other body of water, the Lieutenant Governor in Council may direct a judge of the Supreme Court or the judge of a county or district court to inquire into and determine the proportion in which any municipal or other corporation, company or individual owning a water power or water power site, whether developed or not, is benefited by such works or improvements, and the judge may make an order fixing the proportion in which the cost of such works and improvements shall be borne by any such municipal or other corporation, company or individual and by the Province respectively.

Powers of  
judge on  
inquiry

(2) The judge, upon an inquiry under this section, has the like powers as a judge sitting in court, including the



power to compel the attendance of witnesses, to hear evidence on oath and to require the production of books, papers, documents, matters and things, and the order of the judge is enforceable in the manner provided by *The Judges' Orders Enforcement Act*. R.S.O. 1960, c. 196

(3) No costs shall be awarded to any party appearing before the judge or otherwise interested in the inquiry. Costs

(4) The judge shall be paid such fees and expenses as are fixed by the Lieutenant Governor in Council. Fees and expenses

(5) For the purposes of this section, the cost of the works or improvements shall be deemed to include all expenditures, charges and expenses as fixed by the Commission made or incurred by it in respect of the construction of such works or improvements, extensions and additions thereto, interest charges, operating expenses, repairs and maintenance, down to the date of the order of the judge, the fees and expenses of the judge and the expenses incurred by the Commission in connection with the inquiry. Cost of works, etc., what to include

(6) Any municipal or other corporation, company or individual affected by the order made under subsection 1 may, with the consent in writing of the Commission, appeal from such order to the Court of Appeal. Appeal

(7) The Commission may establish a sinking fund to be provided by the parties in the proportions directed by the order of the judge sufficient to discharge and pay off the cost of such works or improvements and such of the capital cost as may be incurred from time to time by the Commission after the date of the order of the judge within such periods as the Commission fixes having regard to the life of such works or improvements and not exceeding forty years. Sinking fund

(8) The Commission shall, subsequent to the order of the judge, annually fix and determine the cost, charges or expenses incurred by it from time to time in the operation, maintenance, repair and renewal of such works and shall apportion and charge the same against the parties in the proportions fixed by the order of the judge, together with the payments in respect of sinking fund hereinbefore mentioned and the amounts so charged are payable on demand recoverable in the manner hereinafter provided. Annual apportionment of costs by Commission

(9) In fixing the amounts so payable the Commission shall give credit for any amount theretofore contributed to the cost of such works and improvements by a municipal or other corporation or by any company or individual. Allowance for previous expenditure

(10) The amount so found payable by a municipal corporation is recoverable in the like manner as in the case of a Recovery of amount assessed

charge for any other service rendered by the Commission to a municipal corporation and in the case of any other corporation or of a company or an individual the amount so found due constitutes a debt due to the Commission and is recoverable in any court of competent jurisdiction from the owners from time to time of the lands so found by the order of the judge to be benefited by such works or improvements and constitutes a lien or charge upon such lands enforceable in the same manner and by the same proceedings as nearly as may be as in the case of a charge in favour of the Crown.

Share of  
Province,  
how  
payable

(11) Where a proportion of the cost of such works and improvements is to be borne by the Province the amount due from time to time in respect thereof is payable out of the moneys appropriated by the Legislature for that purpose.

Effect of  
order

(12) When the proportions in which the cost of such works or improvements is to be borne have been fixed by order of the judge or of the Court of Appeal, such order is final and binding unless and until it appears to the Commission that owing to change of circumstances or conditions in respect of such works or improvements it is equitable that there should be a readjustment of the proportions theretofore fixed by the order of the judge, and in that case, upon the application of any person liable to contribute to the cost of such works or improvements, made with the consent in writing of the Commission, the judge may make further inquiry and may readjust such proportions to be thereafter applied in such manner as he deems just and equitable, subject to appeal as hereinbefore provided. R.S.O. 1950, c. 281, s. 42.

R.S.O. 1960,  
c. 214, not  
applicable

**43.** Where possession of land of the Commission has been taken by some other person, the right of the Commission, or anyone claiming under it, to recover it, is not barred by reason of the lapse of time, notwithstanding *The Limitations Act*, or any other Act of the Legislature, or by reason of any claim based on possession adverse to it for any period of time that might otherwise be made lawfully at common law, unless it is shown that the Commission had actual notice in writing of such adverse possession, and such notice was had by it ten years before it or the person claiming under it commenced action to recover such land; provided that no claim shall be acquired by possession, prescription, custom, user or implied grant to any way, easement, watercourse or use of water or water right or privilege or flooding privilege of the Commission, or to any way, easement, watercourse, or use of water, or right of drainage along, over, upon, on or from any land, or water, or water right, or privilege of the Commission, notwithstanding *The Limitations Act* or any other Act of the Legislature or any

claim at common law based on lapse of time, or length of enjoyment or use. R.S.O. 1950, c. 281, s. 43.

**44.** Notwithstanding any other Act, where any right, interest, way, privilege, permit or easement has heretofore been, or is hereafter acquired by the Commission, in, through, over, under, along, upon, across or affecting any land, unless it is otherwise agreed, the land continues subject thereto for the term thereof and it is binding upon the owner at the time of acquisition and all subsequent owners of the land until expiration or release by the Commission. 1952, c. 77, s. 3.

**45.** Notwithstanding this Act or any other general or special Act, where works of the Commission have been affixed to realty they remain subject to the rights of the Commission as fully as they were before being so affixed and do not become part of the realty unless otherwise agreed by the Commission in writing. R.S.O. 1950, c. 281, s. 44 (1).

**46.**—(1) Every person who without the consent of the Commission nails or otherwise attaches anything, or causes anything to be nailed or otherwise attached to or upon any property of the Commission is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$10.

(2) The fines recovered for offences against subsection 2 shall be paid over to the Commission. R.S.O. 1950, c. 281, s. 44 (2, 3).

#### TAXATION

**47.** Notwithstanding any other Act, where land that was or is subject to easements, ways, rights of way or entry, flooding rights, licences or rights to maintain works thereon, owned by or belonging to the Commission, has been or is sold for taxes, or in respect of which a tax arrears certificate has been or is registered, such easements, ways, rights of way or entry, flooding rights, licences, or rights to maintain works shall be deemed not to have been or be affected by the sale or registration. R.S.O. 1950, c. 281, s. 45 (4).

**48.**—(1) Notwithstanding *The Assessment Act* or any other general or special Act the Commission and its property is not subject to taxation for municipal or school purposes, except for local improvements.

(2) The Commission shall pay in each year to any municipality in which are situated lands owned by and vested in the Commission or buildings used exclusively for executive and administrative purposes and owned by and vested in the Com-



mission or buildings owned by and vested in the Commission and rented by the Commission to other persons, the total amount that all rates, except, subject to subsection 4 and 5, rates on business assessment, levied in that municipality for taxation purposes based on the assessed value of the land at the actual value thereof according to the average value of land in the locality and the assessed value of such buildings, would produce. 1952, c. 77, s. 5, *part.*

*Idem*

(3) In addition to the amounts payable under subsection 2, the Commission shall pay in each year to any municipality in which are situated generating station buildings or transformer station buildings owned by and vested in the Commission the total amount that all rates except, subject to subsections 4 and 5, rates on business assessment, levied in that municipality for taxation purposes would produce based on an assessed value of such buildings to be determined on the basis of \$2 for each square foot of inside ground floor area of the actual buildings housing the generating, transforming and auxiliary equipment and machinery multiplied by the equalization factor used in that year by the Department of Municipal Affairs. 1959, c. 73, s. 1 (1).

*Idem*

(4) The Commission shall also pay the amount that the current rates for business assessment levied on assessment on,

- (a) lands owned by and vested in the Commission;
- (b) buildings used exclusively for executive and administrative purposes and owned by and vested in the Commission; and
- (c) generating station buildings and transformer station buildings owned by and vested in the Commission,

would produce, based on 60 per cent of the assessed value of such land and buildings as calculated and determined under subsections 2 and 3. 1959, c. 73, s. 1 (2).

*Idem*

(5) The Commission shall also pay the amount that the current rates on business assessment would produce on land and buildings owned or occupied by the Commission for carrying on the business of selling by retail electrical goods, supplies or appliances. 1952, c. 77, s. 5, *part.*

*Limitation*

(6) Notwithstanding subsections 2, 3, 4 and 5, the total amount payable thereunder by the Commission to any municipality in any year shall not exceed 50 per cent of the total of the amounts required for the purposes of the municipality and of all of its local boards being raised by the imposition, rating and levying of all rates, assessments and taxation, except local improvement rates, upon rateable property in the municipality in that year. 1959, c. 73, s. 1 (3).

(7) The payments received under subsections 2, 3, 4 and 5 shall be credited by the municipality to the general fund of the <sup>Credit to municipal</sup> general fund municipality. 1952, c. 77, s. 5, *part*; 1959, c. 73, s. 1 (4).

(8) The assessments and assessed values referred to in <sup>Valuation</sup> this section are valuations made in each year for the purposes of this section by the Department of Municipal Affairs, and subject to subsections 2, 3, 4 and 14 the valuations shall be made on the same basis as real property liable for municipal taxation in the municipality. 1952, c. 77, s. 5, *part*; 1959, c. 73, s. 1 (5).

(9) The decision of the Minister of Municipal Affairs as <sup>Minister's</sup> decision to whether this section applies to any property of the Commission is final.

(10) The Department of Municipal Affairs shall, on completion of the valuation of the Commission's property in a municipality, deliver or mail to the clerk of the municipality and to the Commission a notice setting out the valuations referred to in subsection 8. <sup>Valuation notice</sup>

(11) The municipality or the Commission may appeal <sup>Appeals</sup> to the Ontario Municipal Board against the valuation and a notice of appeal to the Board under this subsection shall be sent by the party appealing, by registered mail, to the secretary of the Board within twenty-one days after the notice of the valuation has been delivered or mailed under subsection 10.

(12) Upon receipt of a notice of appeal under this section, <sup>Hearing</sup> the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof to all parties concerned in the appeal at least fourteen days before the hearing.

(13) The Ontario Municipal Board upon appeal shall <sup>Jurisdiction on appeal</sup> determine the amount at which the property in question shall be valued and its decision is final and binding and there is no appeal therefrom. 1952, c. 77, s. 5, *part*.

(14) In making the valuations referred to in subsection 8, <sup>Exemptions</sup> there shall be no value included for machinery whether fixed or not nor the foundation on which it rests, works, structures other than buildings referred to in subsection 2, 3 or 5, sub-structures, superstructures, rails, ties, poles, towers, lines nor any of the things excepted from exemption from taxation by paragraph 17 of section 4 of *The Assessment Act*, nor other <sup>R.S.O. 1960, c. 23</sup> property, works or improvements not referred to in subsection 2, 3, or 5, nor an easement or the right or use of occupation or other interest in land not owned by the Commission. 1952, c. 77, s. 5, *part*; 1953, c. 82, s. 2; 1959, c. 73, s. 1 (6).

## ADVANCES AND LOANS

Government  
authorized  
to raise funds  
for work of  
Commission  
R.S.O. 1960,  
c. 142; 1951,  
c. 55; 1952,  
(2nd Sess.),  
c. 3

**49.** The Lieutenant Governor in Council may raise by way of loan in the manner provided by *The Financial Administration Act* such sums as he deems requisite for the purposes of this Act and of *The Niagara Development Act, 1951* and of *The St. Lawrence Development Act, 1952 (No. 2)*, and the sums so raised may either be advanced to the Commission or applied by the Treasurer of Ontario in the purchase of notes, bonds, debentures or other securities of the Commission issued by the Commission under this Act. R.S.O. 1950, c. 281, s. 46; 1951, c. 67, s. 5; 1952, c. 77, s. 6; 1953, c. 82, s. 3; 1956, c. 66, s. 4.

Payment  
over to  
Commission  
of moneys  
appropriated

**50.** Where the Legislature has appropriated money for the purposes of the Commission, such money is payable out of such appropriation to the Commission from time to time upon the requisition of the chairman of the Commission and the direction of the Lieutenant Governor in Council, in such amounts and at such times as are stated in the requisition and direction, and this section has effect notwithstanding that there may be sums due from the Commission to the Province and notwithstanding anything in *The Audit Act*. R.S.O. 1950, c. 281, s. 47.

R.S.O. 1960,  
c. 27

Where  
appropri-  
ation is  
exhausted,  
special  
warrant  
may issue

**51.** Where the appropriation made by the Legislature for any work of the Commission becomes exhausted in a fiscal year and the chairman of the Commission reports to the Lieutenant Governor in Council that it is necessary and expedient that such work be proceeded with and that an additional amount is required for that purpose, the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor for the issue of the amount estimated to be required in such fiscal year, and, when issued, such amount shall be placed by the Treasurer of Ontario to the credit of a special account against which cheques may be issued in favour of the Commission for such sums as are required. R.S.O. 1950, c. 281, s. 48.

Repayment  
of advances

**52.—(1)** The advances received by the Commission before the 1st day of January, 1951, under sections 49, 50 and 51 are repayable as follows:

During the twelve-month period ending 31st October, in the years

1961—\$15,492,724.75	1967—\$1,403,485.50
1962— 1,457,165.95	1968— 1,462,764.52
1963— 1,519,463.70	1969— 1,060,733.64
1964— 1,583,069.40	1970— 1,106,410.72
1965— 1,649,394.10	1971— 701,051.95
1966— 1,718,816.64	

R.S.O. 1950, c. 281, s. 49 (1); 1951, c. 67, s. 6, *amended*.



(2) Notwithstanding any other provision in this Act, the Commission may in addition to the repayments provided for under subsection 1 make further repayments on account of the advances by the Province to the Commission from time to time out of funds in its hands. R.S.O. 1950, c. 281, s. 49 (2).

**53.** The Commission in respect of advances received by it before the 1st day of January, 1951, shall pay annually to the Treasurer of Ontario, as interest on the indebtedness of the Commission to the Province, such sum as is from time to time determined by the Lieutenant Governor in Council to be sufficient to reimburse the Province the full amount of interest paid by the Government on moneys raised for the purposes of the Commission and the charges incurred by the Government in providing such money. R.S.O. 1950, c. 281, s. 50; 1951, c. 67, s. 7.

**54.** All advances made by the Province to the Commission after the 1st day of January, 1951, shall be made on such terms and conditions as are agreed upon between the Commission and the Treasurer of Ontario, and without limiting the generality of the foregoing, the Commission, in consideration of any advance, may,

- (a) issue and deliver to the Treasurer of Ontario notes, bonds, debentures or other securities of the Commission for the same principal amount, maturing on the same date or dates, bearing interest at the same rate or rates and payable as to both principal and interest in the same currency or currencies as the debentures or other securities of the Province issued for the purpose of raising the moneys advanced by the Province to the Commission, and containing such other terms and conditions, if any, as to redemption in advance of maturity or otherwise as the Treasurer of Ontario approves; and
- (b) agree to reimburse the Province all charges and expenses incurred or to be incurred by the Province in connection with the creation and issue of such debentures or other securities of the Province and the payment from time to time of the interest thereon and of the principal thereof whether at maturity or on redemption before maturity and of the amount of the premium, if any, on redemption, and such other charges and expenses as the Province incurs. 1951, c. 67, s. 8.

**55.—**(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may borrow from time to time such sums of money as the Commission deems requisite for

any of the purposes of the Commission and may issue notes, bonds, debentures or other securities and the Commission has power and shall be deemed always to have had power to make such securities bear such rate or rates of interest and make such securities payable as to principal and interest at such time or times and in such manner and at such place or places in Canada or elsewhere and in the currency or currencies of such country or countries as the Commission with the approval of the Lieutenant Governor in Council determines. R.S.O. 1950, c. 281, s. 51 (1).

Purposes of  
Commission

(2) The purposes of the Commission shall, without limiting the generality thereof, include,

- (a) repayment on account of the advances by the Province to the Commission;
- (b) payment in whole or in part of any notes, bonds, debentures or other securities of the Commission issued and delivered to the Treasurer of Ontario in respect of any advances from the Province to the Commission;
- (c) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Commission under this or any other Act;
- (d) payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Commission;
- (e) payment of the whole or any part of any other liability or indebtedness of the Commission;
- (f) carrying out any of the powers and purposes of the Commission referred to in sections 24 to 29, 38 and 86 or in respect of the acquisition or construction of works referred to in section 64 or in section 65, or carrying out any of the powers and purposes of the Commission referred to in *The Niagara Development Act, 1951* or in *The St. Lawrence Development Act, 1952* (No. 2) providing in whole or in part for expenditures of the Commission made or to be made in connection therewith, reimbursing the Commission for any such expenditures heretofore or hereafter made, and repaying in whole or in part any temporary borrowings of the Commission for any of such purposes. R.S.O. 1950, c. 281, s. 51 (2); 1951, c. 67, s. 9; 1952, c. 77, s. 7; 1953, c. 82, s. 4.

(3) For the purposes specified in subsection 2, the Commission may borrow and may issue as aforesaid in such amounts as will realize the net sum required by the Commission for such purposes and a recital or declaration in the resolution or minutes of the Commission authorizing the issue of securities to the effect that the amount of securities so authorized is necessary to realize the net sum required for the purposes of the Commission is conclusive evidence of the fact.

(4) The Commission on such terms and conditions as it deems advisable may sell or otherwise dispose of any such notes, bonds, debentures and other securities, may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security.

(5) Any such securities dealt with as collateral security when redelivered to the Commission or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Commission again becomes entitled to such securities, may be treated by the Commission as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Commission deems advisable, or at its option may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences, and upon such issue or reissue any person entitled thereto has the same rights and remedies as if the same had not been previously issued.

(6) The Commission on such terms and conditions as it deems advisable may charge, pledge, hypothecate, deposit or otherwise deal with as collateral security any bonds, debentures or other securities in which it has invested its funds as in section 20 provided.

(7) The notes, bonds, debentures and other securities of the Commission shall be in such form or forms and shall be executed in such manner as the Commission determines.

(8) The Commission may provide that the seal of the Commission may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and that any signature upon any such security and upon the coupons, if any, attached thereto may be engraved, lithographed or printed or otherwise mechanically reproduced thereon.



Effect of  
mechanical  
reproduction  
of seal and  
signatures

(9) The seal of the Commission when so mechanically reproduced has the same force and effect as if manually affixed and such mechanically reproduced signatures are for all purposes valid and binding upon the Commission notwithstanding that a person whose signature is so reproduced has ceased to hold office before the date of the security or before its issue. R.S.O. 1950, c. 281, s. 51 (3-9).

Guarantee-  
ing bonds of  
Commission

**56.**—(1) The Lieutenant Governor in Council is authorized, on such terms as are approved by order in council, to agree to guarantee the payment of the principal and interest of any bonds, debentures or other securities issued by the Commission, and the form and manner of any such guarantee or guarantees shall be such as the Lieutenant Governor in Council approves, and the guarantee or guarantees shall be signed by the Treasurer of Ontario or the Deputy Provincial Treasurer or such other officer or officers as are designated by the Lieutenant Governor in Council, and upon being so signed, the Province of Ontario becomes liable for the payment of the principal and interest of the bonds, debentures or other securities guaranteed according to the tenor thereof, and the Lieutenant Governor in Council is authorized to make arrangements for supplying the money necessary to fulfil the requirements of the guarantee or guarantees and to advance the amount necessary for that purpose out of the public funds of the Province, and, in the hands of any holder of any such bonds, debentures or other securities, any guarantee so signed is conclusive evidence that the terms of this section have been complied with. R.S.O. 1950, c. 281, s. 52; 1960, c. 85, s. 6 (1).

Signatures  
may be  
mechanically  
reproduced

(2) The signature of the Treasurer of Ontario or of the Deputy Provincial Treasurer or of such other officer or officers provided for in subsection 1 may be engraved, lithographed, printed or otherwise mechanically reproduced, and the mechanically-reproduced signature of any such person shall be deemed for all purposes the signature of such person and shall be binding upon the Province of Ontario notwithstanding that the person whose signature is so reproduced may not have held office at the date of the bonds, debentures or other securities or at the date of the delivery thereof and notwithstanding any change in any of the persons holding any such office between the time when any such signature is affixed and the date of delivery of the bonds, debentures or other securities. 1960, c. 85, s. 6 (2).

Guarantee-  
ing perform-  
ance of  
contract for  
purchase of  
shares

**57.** The Lieutenant Governor in Council may on behalf of the Province enter into any covenants or agreements in connection with the acquisition by the Commission of any shares in any incorporated company and guarantee the observ-

ance and performance by the Commission of any contract or agreement of the Commission in relation to such acquisition. R.S.O. 1950, c. 281, s. 53.

**58.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may from time to time for any <sup>Temporary loans</sup> of the purposes of the Commission borrow by way of temporary loan from any chartered bank or from any person such sums as the Commission deems requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

(2) For the purposes of subsection 1, the Commission may <sup>Security for temporary loans</sup> pledge as security, notes, bonds, debentures or other securities of the Commission pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Commission, or otherwise give such security as the Commission determines, and any cheques, promissory notes, or other instruments that may be necessary or desirable for the purposes of subsection 1 or this subsection may be executed in such manner as the Commission determines.

(3) The Lieutenant Governor in Council may <sup>Guarantee by Province</sup> guarantee the repayment of advances made by banks or any other indebtedness incurred by the Commission. R.S.O. 1950, c. 281, s. 54.

#### BUSINESS OPERATIONS

**59.**—(1) The Commission may, out of any funds in its hands, purchase such electrical, hydraulic or other machinery, <sup>Commission may purchase and sell supplies</sup> appliances, apparatus and furnishings as may be used in the transmission, distribution, supply or use of power and may sell or dispose of the same.

(2) The Lieutenant Governor in Council, upon the request of the Commission specifying, <sup>Manufacturing and dealing in supplies</sup>

(a) the nature and volume of the business to be carried on; and

(b) the extent of the liability that may be incurred in connection therewith,

may authorize the Commission to manufacture in Ontario such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the development, transmission, distribution, supply or use of power, and to acquire patents of invention or interests therein, and to sell or dispose of such machinery, appliances, furnishings or patent rights, and the profits and losses arising from such operation shall be adjusted and apportioned among the

municipalities having contracts with the Commission or be otherwise applied as the Commission sees fit.

Doing work  
for contract-  
ing munici-  
palities, etc.

(3) The Commission may,

- (a) undertake and carry out the preparation of plans, specifications and estimates for, and the construction, erection, installation and putting down of, any plant, machinery, and other things;
- (b) purchase supplies, wires, poles, and other things;
- (c) render engineering or other service,

for the generation, purchase, transmission, distribution, supply or use of power for light, heat or power purposes, or for the manufacture, procuring, producing, supply or use of any other public utility, by a municipal corporation or commission, or by any other corporation or any person, and the Commission may charge and collect from such corporation, commission or person the cost of any work done or service rendered by the Commission under this subsection.

Work for  
extending  
use of power

(4) Subject to the approval of the Lieutenant Governor in Council, the Commission, out of any funds in its hands, may undertake and carry on investigation, experiments, research, development and other work in or for the generation, transmission, distribution, supply, sale or use of power and may use and apply the results thereof, and may undertake and carry on any electro-chemical, chemical, or physical process and, without limiting the generality thereof, electrolysis, reduction, synthesis and conversion of water and other resources, their constituents and compounds and the development and manufacture of products therefrom.

Dealing in  
patents and  
products

(5) The Commission may acquire any patent or licence or interest in any patent or licence and may use or supply or dispose of by sale, lease, hire, licence or otherwise any such patent, licence or interest and any product, article or commodity produced, used, acquired or found in the operations of the Commission and any right to or interest in any process or the right to use the same.

Power to act  
with others

(6) The Commission may do any or all of the things authorized in this section as principals, agents, contractors, trustees or otherwise and either alone or in conjunction with others, and a municipal corporation or commission may act as agent for the Commission.

Profits to  
reduce cost  
of power

(7) Any net profit obtained by the Commission from anything authorized in this section shall be applied as the Commission deems equitable towards reduction in the cost of



power to municipal corporations having contracts with the Commission for the supply of electrical power. R.S.O. 1950, c. 281, s. 55.

**60.** Where in the course of the operations of the Commission any commodity is produced as a by-product or is found upon property vested in the Commission, the Commission may sell or otherwise dispose of such commodity at such prices and upon such terms as it deems proper, and any revenue so obtained shall be applied in reduction of the cost of power to municipal corporations having contracts with the Commission for the supply of power from the works or property in connection with which the commodity is produced. R.S.O. 1950, c. 281, s. 56.

By-products, sale of, to reduce cost of power

**61.** When any works constructed or acquired by the Commission for the purpose of supplying power are not in use for that purpose, the Commission with the approval of the Lieutenant Governor in Council may utilize them for such revenue-producing purposes as it deems proper, and any revenue so derived shall be applied in the reduction of the cost of power to municipal corporations having contracts with the Commission for the supply of power from such works. R.S.O. 1950, c. 281, s. 57.

Unused works may be utilized to produce revenue

## PART II

### SUPPLY OF POWER

**62.—(1)** Any municipal corporation may apply to the Commission for the transmission and supply to it of power for its use and the use of the inhabitants of the municipality for lighting, heating and power purposes or for any of the purposes mentioned in section 71.

Application to Commission for supply of power to municipal corporation

(2) The Commission shall thereupon furnish to the corporation an estimate of the cost at which the power can be supplied to the corporation, including an estimate of the cost of the works by means of which the amount of power required by the corporation is to be supplied, and the Commission may furnish to the corporation plans and specifications of the works necessary for the distribution of such power by the corporation and an estimate of the cost thereof, and such other information as the Commission deems advisable.

Information and estimates to be supplied by Commission

(3) The corporation may thereupon submit to a vote of the electors of the municipality, in accordance with *The Municipal Act*, a question as to securing a supply of power from the Commission, and if a majority of the electors vote in the affirmative, the council of the corporation may, by by-law, authorize the entering into, and the corporation shall there-

Vote of electors R.S.O. 1960, c. 249

upon enter into, a contract with the Commission in such form as is approved by the Lieutenant Governor in Council, and it is not necessary to submit a by-law approving thereof for the assent of the electors and the contract is valid and binding.

#### Debentures

(4) Notwithstanding anything in *The Municipal Act* or in any general or special Act, debentures issued or purporting to be issued by a municipal corporation that has entered into a contract with the Commission for a supply of power from the Commission for the purpose of carrying out the contract, or for constructing or equipping works for the development, transmission and distribution of power so supplied, shall not be included in ascertaining the limits of the borrowing powers of the corporation as prescribed by *The Municipal Act*, or in any general or special Act. R.S.O. 1950, c. 281, s. 58.

R.S.O. 1960,  
c. 249

R.S.O. 1960,  
c. 249,  
s. 287,  
not to apply

**63.** Section 287 of *The Municipal Act* does not apply to any contract between the Commission and a municipal corporation for the supply of power. 1960, c. 85, s. 7.

#### When title to undertakings in territorial districts to be in the Crown

**64.**—(1) Where under the authority of the Lieutenant Governor in Council the Commission has acquired or constructed, is in the process of acquiring or constructing, or may hereafter acquire or construct works for the generation, transmission or distribution of power wholly or partly in anticipation of a future demand for power in any of the territorial districts of Ontario as set forth in *The Territorial Division Act*, and Her Majesty and the Commission have entered into an agreement in relation thereto as provided in subsection 2, such works shall be held by the Commission in trust for Her Majesty in right of Ontario. R.S.O. 1950, c. 281, s. 59 (1).

R.S.O. 1960,  
c. 395

#### Agreements between the Crown and the Commission as to undertakings in territorial districts

(2) Her Majesty may enter into an agreement or agreements with the Commission, relating to any or all of the works mentioned in subsection 1, providing for payment to the Commission out of the Consolidated Revenue Fund of the amounts from time to time by which the revenues that have been or may hereafter be derived from such works are or may be insufficient to meet in full the annual costs and charges in connection therewith as determined by the Commission, including the items set forth in clauses *a*, *b* and *c* of section 78 and an amount to be determined by the Commission to be provided for the purposes of sections 14 and 16, and such agreement or agreements when executed by the President of the Executive Council representing Her Majesty and the Commission are valid and binding on the Province and the Commission respectively. R.S.O. 1950, c. 281, s. 59 (2); 1955, c. 62, s. 9.

(3) In subsection 2, "the annual costs and charges in connection therewith as determined by the Commission" <sup>Definition of annual costs and charges</sup> includes for the purposes of subsection 2 and of every agreement heretofore or hereafter entered into between Her Majesty and the Commission thereunder all costs, charges and expenditures incurred or to be incurred for the provision of a reserve for, and the amortization of the cost of, standardizing and making uniform the periodicity in alternations of current at which power is generated and supplied by the Commission from works held by it in trust for Her Majesty in right of Ontario and at which such power is utilized. 1957, c. 93, s. 2.

(4) Such agreement or agreements may provide the time and manner of such payments, the works in respect of which such payments are to be made, the rates of interest on any sums so paid and the repayment of the same out of any surplus thereafter arising from the revenue derived from such works and generally such other matters, things and conditions as are necessary or incidental thereto. <sup>Terms of agreements</sup>

(5) For the purposes of this section all of such works may be treated as one or more units as the Commission from time to time determines. <sup>Union of undertakings</sup>

(6) The Commission may contract with any municipal corporation or person for the supply of power from such works or procured pursuant to subsection 9 or 10 at such rates and upon such terms and conditions as the Commission deems proper. <sup>Municipal contracts</sup>

(7) The contract with a municipal corporation under subsection 6 may provide for the supply of power at fixed rates or price notwithstanding anything in section 78, and in such event the provisions as to cost in section 78 and the provisions in other sections of this Act relating to such cost do not apply to such municipal corporation but otherwise this Act applies to such municipal corporation. <sup>Cost in s. 78 does not apply</sup>

(8) Subsection 7 applies to municipal corporations supplied with power from works covered by an agreement authorized under subsection 2 or procured pursuant to subsection 9 or 10, and shall be deemed so to have applied since the 18th day of April, 1933. <sup>Subs. 7 retroactive</sup>

(9) The Commission may divert power from any system as defined in section 82 for use in any of the territorial districts of Ontario paying to the system supplying such power such price as determined by the Commission and including such price in the annual costs and charges referred to in subsection 2 in such manner as the Commission determines. <sup>Diversion of power</sup>



Purchase  
of power

(10) The Commission may purchase power for use in any of the territorial districts of Ontario at such price and upon such terms as it sees fit including such price in the annual costs and charges referred to in subsection 2 in such manner as the Commission determines.

Transfer of  
power to  
systems

(11) The Commission may divert, transmit or transfer power from any or all of the works mentioned in subsection 1 for use in any system or systems as defined in section 82 crediting to the revenue derived from such works such price for the power as the Commission determines. R.S.O. 1950, c. 281, s. 59 (3-10).

Establishing  
Northern  
Ontario  
Properties  
trust

**65.**—(1) Notwithstanding this Act or any other general or special Act, or any agreement that has been entered into by Her Majesty with the Commission pursuant to subsection 2 of section 64, or any agreement entered into by the Commission with any other person, the works in the territorial districts of Ontario now held in trust for Her Majesty pursuant to section 64 and all other assets related thereto and the works now held in trust for the municipalities comprised in the Commission's Thunder Bay System and all other assets related thereto shall, subject to the respective liabilities and with the reserves now attaching thereto, be deemed as of January 1, 1952, to be held in one trust to be known as the "Northern Ontario Properties" for Her Majesty and the municipalities, the beneficial interest of Her Majesty and of each municipality now or hereafter becoming a beneficiary under the trust being according to the amounts heretofore or hereafter charged and received under power contracts by the Commission from the municipalities and from persons supplied by it with power for the account of Her Majesty for repayment of indebtedness incurred or assumed by the Commission in respect of the works, and also to the amount of reserves transferred in respect of the trust as of January 1, 1952, to the credit of the municipalities now comprised in the Thunder Bay System or to the credit of Her Majesty or contributed subsequently to January 1, 1952.

Additional  
beneficiaries

(2) Any municipality in the territorial districts of Ontario that enters into a contract with the Commission for the supply of power from works held by the Commission under the Northern Ontario Properties trust at the cost thereof to the Commission thereupon becomes a beneficiary under the trust established by subsection 1.

Crown  
customers

(3) All persons in the territorial districts of Ontario supplied with power by the Commission from works held by it under the Northern Ontario Properties trust except municipalities supplied at cost, including persons now supplied by the Com-

mission in rural power districts on behalf of townships or pursuant to section 92, shall hereafter be deemed to be supplied for the account of Her Majesty and all profit or loss arising from supplying such power shall be credited or charged to Her Majesty.

(4) Notwithstanding section 82, a rural power district shall be deemed not to be a municipality for the purposes of this section. Rural power districts not beneficiaries under trust

(5) The words "such works" in subsection 6 of section 64, the words "works covered by an agreement authorized under subsection 2" in subsection 8 of section 64 and the words "the works mentioned in subsection 1" in subsection 11 of section 64 also include the works held in trust under this section. 1953, c. 82, s. 5. Works

**66.** A municipal corporation that has entered into a contract for the supply of power by the Commission may, by its officers, agents, servants and workmen, enter into and upon the lands of any person, including lanes, courts, yards and buildings, for the purpose of placing overhead or underground wires with their appurtenances without the consent of the owner or occupant of such property, but subject to the payment of compensation for any damage caused thereby, to be determined in the manner provided by *The Municipal Act*, where a municipal corporation enters upon and takes land for its purposes, but leave of a judge or payment into court is not necessary before the exercise of the powers vested by this section in the municipal corporation. R.S.O. 1950, c. 281, s. 60. Right to enter on lands to put up wires, etc. R.S.O. 1960, c. 249

**67.—(1)** Where a municipal corporation has heretofore entered into or hereafter enters into a contract with the Commission to take power, either at the time of entering into the contract or, at any time thereafter, exclusively from the Commission, the municipal corporation shall not grant to any corporation or person any right or franchise to erect or lay down poles, wires, conduits or any other structures or works for the distribution of power in the municipality, either for the use of the municipal corporation or the inhabitants generally, or of any particular person, and every such right or franchise and every agreement therefor granted or entered into with or without the assent of the electors is void. Granting of franchises by municipalities under contract with Commission prohibited

(2) Where it is alleged that any person has erected or laid down upon, over or under any street or other highway in a municipality, any poles, wires, conduits or other structures or works for the transmission or distribution of power without the consent of the municipal corporation lawfully given under Proceedings for ascertaining rights where franchise claimed

a by-law of its council or is continuing to maintain or use any such structures or works upon, over or under any such street or highway without lawful authority, the Lieutenant Governor in Council, upon the complaint of the municipal corporation or of any ratepayer, or of the Commission, may direct an inquiry by the Ontario Municipal Board or by a commission composed of two judges of the Supreme Court, and the Board or commission may inquire into the matter, and if, as a result of the inquiry, it is found that such structures or works are upon, over or under any street or highway without lawful authority, the Board or commission may order the removal of all such poles, wires, conduits or other structures upon such notice and upon such terms and conditions as the Board or commission deems just or reasonable, and an order made by a commission under this subsection may be filed with the Registrar of the Supreme Court and has the same force and effect and is enforceable in the like manner as a judgment of the Supreme Court.

When work  
to be deemed  
unlawfully  
upon the  
highway

(3) Any such structure or work shall be deemed to be upon, over or under any street or highway without lawful authority where no such right or franchise is found to have existed or where the term for which the right or franchise was originally granted has expired, or where the right or franchise was not granted by by-law in compliance with the statutes relating thereto, and no such right or franchise shall be deemed to have been acquired by lapse of time or by any express or implied acquiescence on the part of the municipality or of any other municipality, company or individual formerly owning or controlling such street or highway or the lands included therein. R.S.O. 1950, c. 281, s. 61.

Enforcement  
of agree-  
ments

**68.** Notwithstanding any provision in the contract or agreement entered into between a municipal corporation and the Commission providing for the determination of questions arising under the contract or agreement, or for the settlement of any dispute between the municipal corporation and the Commission by the Lieutenant Governor in Council or in any other manner, the Commission may bring an action for any breach of the contract or agreement on the part of the municipal corporation, and the court may in any such action grant an injunction restraining the municipal corporation from doing any act or continuing any such breach, may order the municipal corporation to supply any omission or to do any act required to be done by it under the terms of the contract or agreement, and may award to the Commission such sum as damages for any such breach as the court considers a fitting penalty to impose upon the municipal corporation therefor. R.S.O. 1950, c. 281, s. 62.



**69.**—(1) The trustees of a police village shall, for the purposes of this Part, be deemed to be a municipal corporation, and may exercise all the powers conferred upon municipal corporations by this Part, and may enter into a contract with the Commission for the supply of power as provided by this Act. Trustees of police village may contract with Commission

(2) The council of the township or the councils of the townships in which the police village is situate, upon the request of the police trustees, shall submit the question as to the supply of power provided for by section 62, to a vote of the electors of the police village qualified to vote thereon, and shall, upon the like request, issue debentures as provided by this Act. Submission of by-law to electors

(3) The council of the township in which the police village or any part thereof is situate shall annually levy by special rate upon the rateable property in the police village, or in that part of the police village situate in the township, the amounts required to meet the payments to be made to the Commission, and to pay off the debentures issued under subsection 2. R.S.O. 1950, c. 281, s. 63. Township to levy special rate

(4) Where the trustees of a police village have entered into a contract with the Commission for the supply of power and have heretofore constructed, purchased or acquired, or hereafter construct, purchase or acquire, works for distributing power and the trustees of the police village desire to extend or improve such works, they may apply to the council of the township for the passing of a by-law for the issue of debentures for such extension or improvement, and the council shall pass the necessary by-law for borrowing such further sums as may be necessary for such extension or improvement, and for levying by an annual special rate upon the rateable property in the police village the sums required for the payment of the debentures issued for the extensions or improvements. Extension, etc., of works in police village

(5) The by-law shall be approved by the Commission before the final passing thereof, but does not require the assent of the electors. Assent of electors not required

(6) Such approval may be given if it is shown to the satisfaction of the Commission that the extension or improvement is necessary or desirable, and that sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon. R.S.O. 1950, c. 281, s. 64. Approval of Commission

(7) The trustees of a police village are a commission for the control and management of works established for the distribution of power in the police village, and have and may exercise and perform the like powers and duties as nearly as may be as a commission formed under *The Public Utilities Act* in an incorporated village. Trustees to be a Commission  
R.S.O. 1960, c. 335

## Secretary-treasurer

(8) The trustees of a police village shall appoint a competent person to act as secretary-treasurer for the purpose of keeping the accounts of the trustees for the distribution and supply of power and acting as custodian of funds collected by the trustees or received by them from the treasurer of the township for the establishment of works in connection with the distribution of power.

## Security

(9) The secretary-treasurer shall give security for the due accounting of all sums of money coming to his hands and for the payment over to the township treasurer of the sums required from time to time to meet payments coming due for interest and principal and to provide a sinking fund for the payment of any debentures issued for the works undertaken by the trustees under any contract with the Commission.

## Audit of accounts

(10) The accounts of the secretary-treasurer shall be audited by the auditor of the township in which the police village is situate, or if the police village includes parts of two or more townships, then by the auditor of that township having the highest assessment in the police village. R.S.O. 1950, c. 281, s. 65.

By-laws  
R.S.O. 1960,  
c. 335

**70.**—(1) Notwithstanding *The Public Utilities Act* or any other Act, the council of a township may from time to time pass by-laws,

- (a) for establishing, with the approval of the Commission, an area in the township as to which any of the by-laws passed under clauses *b*, *c* and *d* have effect, or establishing the whole township as such an area;
- (b) for entering into a contract with the Commission, with the assent of the municipal electors of the area qualified to vote on money by-laws, for the supply of power for the use of the municipality and its inhabitants in any area established under clause *a*;
- (c) for acquiring real and personal property and acquiring, constructing, reconstructing, extending and operating works for the development, transmission and distribution of power in the municipality;
- (d) for exercising, for such purposes, any of the powers that may be exercised by a town under *The Municipal Act*, *The Local Improvement Act*, *The Public Utilities Act*, or this Act.

R.S.O. 1960,  
cc. 249, 223,  
335

Alteration  
of areas

(2) The council, with the approval of the Commission, may from time to time, by by-law, enlarge the boundaries of any area established under clause *a* of subsection 1, or otherwise

alter its boundaries or incorporate with it any other established area.

(3) When the council has passed a by-law under clause *a* of subsection 1 or under subsection 2, it may issue debentures for the purposes of clause *b*, *c* or *d* of subsection 1, and levy a special rate for the amounts required to be raised on account of principal or sinking fund and of interest for the payment of such debentures in the area so established, enlarged or altered, and notwithstanding *The Municipal Act* or any other Act, it is not necessary to obtain the assent of the electors to the by-law for the issue of such debentures. Debenture issue R.S.O. 1960, c. 249

(4) The council of a township that has entered into a contract with the Commission for the supply of power for the use of the municipality and its inhabitants in any area established under clause *a* of subsection 1 may by by-law provide for entrusting the construction of the works and the control and management thereof to a commission to be called "The Hydro-Electric Commission of (*naming the area*) of (*naming the township*)" or if the area comprises the whole township, "The Hydro-Electric Commission of the Township of (*naming the township*)". Commission for construction and management of works

(5) It is not necessary to obtain the assent of the electors to the establishment of a commission under subsection 4, but the commissioners elected shall be residents of the area for which they are elected commissioners. Assent of electors not necessary

(6) Upon the incorporation of any area in another area the commission, if any, for the area so incorporated shall be deemed to be disestablished and the commission, if any, for the other area shall be a commission for the combined area. Disestablishment of commission

(7) Subject to subsection 8, where a commission has been established under this section and the members thereof have been elected, all the powers, rights, authorities and privileges that by *The Public Utilities Act* are conferred upon a municipal corporation in respect of power shall, while the by-law for establishing it remains in force, be exercised by the commission in the area for which it was established or in the area to which such area may have been enlarged and not by the council of the municipality. Revenue of commission R.S.O. 1960, c. 335

(8) Nothing in this section divests the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any moneys so provided, and nothing in this Act divests the council of the rights and powers conferred upon it by *The Local Improvement Act*. Council to provide money for works R.S.O. 1960, o. 223

(9) Sections 42, 43, 44, 47 and 48 of *The Public Utilities Act* apply to every commission established under this section. Provisions of R.S.O. 1960, o. 335 to apply



Repeal of  
by-law  
establishing  
commission

(10) A by-law establishing a commission under this section may be repealed by the council of the municipality at any time with the consent of the Commission and it is not necessary to obtain the assent of the electors to such repeal.

Reverting  
of works

(11) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works are vested in the council, and the commission ceases to exist. R.S.O. 1950, c. 281, s. 66.

Areas fixed  
as of May 1,  
1951

(12) Notwithstanding anything in this section, no areas shall be established nor the boundaries of any established area enlarged or altered after the 1st day of May, 1951. 1951, c. 67, s. 10.

#### POWERS OF MUNICIPALITIES

Supply of  
power, etc.

**71.**—(1) In addition to the powers conferred by this Act, a municipal corporation that has entered into a contract with the Commission for the supply of power has and may exercise in respect of such power all the powers that are by *The Public Utilities Act* or *The Municipal Act* conferred upon municipal corporations in respect of light and heat, and all the powers that are conferred upon municipal corporations by *The Municipal Act* for contracting debts for any purpose within the jurisdiction of the council thereof, and also the power to expropriate land, making compensation therefor under *The Municipal Act*.

R.S.O. 1960,  
cc. 335, 249

By-law for  
borrowing  
money

(2) The council of a municipal corporation may, if it sees fit, submit to the electors a by-law providing for borrowing, by the issue of debentures, the money required for any of the purposes mentioned or referred to in sections 62 and 69 and in this section at the same time as the council submits to the electors a question as to supply of power under section 62, and the by-law for borrowing money may be finally passed either before or after the municipal corporation has entered into a contract with the Commission for the supply of power, but the debentures authorized by the by-law shall not be issued until the municipal corporation has entered into a contract with the Commission for the supply of such power.

Supplying  
power  
outside of  
municipality

(3) A municipal corporation that has entered into a contract with the Commission under this Act may, from time to time, with the approval of the Commission, contract with any other municipal corporation or with any person for the supply or distribution of power in any other municipality, and such other municipal corporation has authority to enter into the contract; but a municipal corporation shall not exercise the power conferred by this section in another municipality without the consent of the council thereof. R.S.O. 1950, c. 281, s. 67.

## CONTRACTS OF COMMISSION

**72.**—(1) In addition to the powers conferred upon it by this Act or any other Act to contract with municipal corporations for the supply by it of power and to contract with persons pursuant to sections 64, 88 and 92, the Commission, subject to the approval of the Lieutenant Governor in Council, may contract with any other person for the supply of power to such person upon such terms and conditions as the Commission deems proper.

(2) The revenue, or any part thereof, derived by the Commission from supplying power under subsection 1 for use outside Ontario and which in the opinion of the Commission is so derived because of anything done pursuant to section 26 may be placed to the credit of the frequency standardization reserve account. R.S.O. 1950, c. 281, s. 68 (1, 2).

(3) Any net surplus made by the Commission in supplying power under subsection 1 to persons within the areas of municipal corporations and police villages excluded from the Southern Ontario Rural Power District by subsection 2 of section 86 that have contracted with the Commission for the supply of power at cost shall be applied in reduction of the cost of power to such municipal corporations and police villages; and subject to subsection 3 of section 65 any net surplus made by the Commission in supplying power under subsection 1 to other persons shall be applied in reduction of the cost of power in rural power districts. 1960, c. 85, s. 8.

(4) Net surplus referred to in subsection 3 shall be determined by deducting from the revenue received from supplying power under subsection 1 all moneys placed to the credit of the frequency standardization reserve account pursuant to subsection 2 and an amount determined by the Commission for costs and charges as enumerated in clauses *a*, *b*, *c* and *d* of section 78. R.S.O. 1950, c. 281, s. 68 (4); 1955, c. 62, s. 10.

(5) The Commission may contract with a railway company or power or transmission company for the use of its right of way and property for the purposes of the Commission. R.S.O. 1950, c. 281, s. 68 (5).

**73.** Notwithstanding anything in section 72, it is not necessary to obtain the approval of the Lieutenant Governor in Council to any contract for a supply by the Commission of power to any person from works that the Commission has acquired or constructed and is operating for the distribution of power or to any contract for the supply of power under section 92. R.S.O. 1950, c. 281, s. 69; 1953, c. 82, s. 7.

Amendment  
of agree-  
ments

**74.**—(1) If any agreement heretofore or hereafter entered into by the Commission for the supplying of power by the Commission to a municipal corporation or for any other work or service to be done or supplied by the Commission to a municipal corporation contains any term or condition conflicting with or contrary to this Act, the agreement shall be deemed to be amended in such manner and to such extent as to give effect to this Act.

Effect of  
approval

(2) Subject to subsection 1, where the Commission has heretofore entered, or hereafter enters into an agreement for the supplying of power by or to the Commission or for any other work or service to be done by or supplied to the Commission and such agreement has been or is hereafter approved by the Lieutenant Governor in Council, it is thereupon valid and binding upon the parties thereto. R.S.O. 1950, c. 281, s. 70.

State of  
emergency

**75.**—(1) Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into by the Commission or by any municipal corporation for which the Commission supplies power under section 86, where at any time the Commission is of opinion that a state of emergency exists by reason of damage to or destruction, failure or breakdown of any of its works, wastage of power, power demand in excess of its power resources or other matters restricting its ability to deliver power, and the Commission so declares, the Commission may, during the state of emergency,

- (a) allocate and distribute its available power among the customers under such contracts and interrupt or decrease delivery of power under any contract during the continuance of the emergency; and
- (b) with the approval of the Lieutenant Governor in Council, regulate, restrict, prohibit and control the generation, transformation, transmission, distribution, supply and use of power supplied by it,

in order to effect what is in its opinion the most economical, efficient and equitable use and distribution of such power.

Modifica-  
tion of  
restrictions

(2) The Commission may at any time modify, restrict, suspend or re-impose any order, regulation, restriction, prohibition or control, heretofore or hereafter given, made or exercised under subsection 1.

Cessation  
of power  
delivery

(3) The Commission may interrupt or decrease delivery of power in such manner and to such extent as it sees fit to any of its customers who fail to comply with any direction, order, regulation, restriction, prohibition or control given,



made or exercised by it under subsection 1 by such means as it deems proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

(4) Any municipal corporation or municipal commission receiving power from the Commission for distribution may interrupt or decrease delivery of power in such manner and to such extent as it sees fit to any of its customers who fail to comply with any direction, order, regulation, restriction, prohibition or control given, made or exercised by the Commission under subsection 1, by such means as it deems proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

(5) Nothing done under this section or under any direction, order, regulation, restriction, prohibition or control made or exercised by the Commission under this section or done to enforce or give effect thereto by the Commission, its servants or agents, or by any municipal corporation or municipal commission or its servants or agents, shall be deemed a breach of contract by the Commission or any municipal corporation or municipal commission or entitle any person to rescind any contract or release any guarantor from the performance of his obligation, or render the Commission, its servants or agents, or any municipal corporation or municipal commission, its or their servants or agents liable in any action-at-law or other legal proceedings for damages or otherwise.

(6) Every person who refuses or neglects to comply with any direction, order, regulation, restriction, prohibition or control made or exercised by the Commission under this section is guilty of an offence and, in addition to any other liability, on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and a further fine of not less than \$100 and not more than \$500 for each day upon which such refusal or neglect is repeated or continued. R.S.O. 1950, c. 281, s. 71.

**76.**—(1) Where the Commission supplies or distributes power directly to the consumer either on its own behalf or by arrangement or under contract with a municipal corporation, the amount payable by the owner of any building or lot, or part of lot, for the power supplied to him for use therein or thereon, and all rents, rates, costs and charges in connection with the service or supply of such power or the installation of any works for such service or supply are a lien and charge upon the building or lot or part of lot in the same manner and to the same extent as municipal taxes on land, and, in default of payment, the clerk of the municipality, upon being notified in writing by the Commission of the sum due, shall forthwith

enter the same upon the collector's roll and it shall be collected in the same manner as municipal taxes on land and upon recovery thereof shall be paid over to the Commission; provided that when a mortgage or lease of the building or lot or part of lot in question has been duly registered before an entry upon the collector's roll as above described, the lien and charge hereby created rank after advances actually made under such mortgage and after rent accrued due under such lease before such entry.

When power  
deemed to  
be supplied

(2) For the purposes of this section, power shall be deemed to be supplied to the consumer not only when it is actually used by the owner but when it is rendered available or held in reserve for him under the terms of his contract with the Commission or the municipal corporation. R.S.O. 1950, c. 281, s. 72.

Repayment  
of expendi-  
tures

**77.** The expenditure by the Commission upon any works undertaken under this Act for the benefit of a municipal corporation that has entered into a contract with the Commission is repayable to the Commission by the municipal corporation. R.S.O. 1950, c. 281, s. 73.

Cost of  
power to  
municipality

**78.** Notwithstanding anything in any general or special Act passed before the 3rd day of April, 1928, or in any contract entered into before the 3rd day of April, 1928, and, except where under the terms of any such contract power is to be supplied to a municipal corporation at a fixed price, the price payable for power by any municipal corporation is the cost to the Commission, as determined by it, of supplying and delivering power to the municipal corporation, including the municipal corporation's proportion, as adjusted by the Commission, of,

- (a) the cost of operation, maintenance, depreciation and insurance of the works and the cost of administration of the Commission;
- (b) interest and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;
- (c) an annual sum sufficient to form in forty years, with interest at 4 per cent per annum, a sinking fund for the repayment of the advances made by the Province under this Act for the cost of the works, for the repayment of any other indebtedness incurred or assumed by the Commission in respect of the cost of the works, and for the restoration of any reserve or other funds of the Commission utilized for the payment of the cost of the works; and

- (d) an amount to be determined by the Commission for the purposes of sections 14 and 16 and clause c of section 15. R.S.O. 1950, c. 281, s. 74; 1955, c. 62, s. 11.

**79.** Notwithstanding anything in this Act, a municipal corporation that has entered into or hereafter enters into a contract with the Commission for a supply of power may be relieved by the Commission from payment of any sum on account of the sinking fund account for the first five years during which payments are made to the Commission by the municipal corporation under such contract, and the amounts required from such municipal corporation on sinking fund account are payable during the then next ensuing forty years. R.S.O. 1950, c. 281, s. 75.

**80.** The Commission may, during the first three years after a municipal corporation first begins to take power from the Commission, extend the time for payment of any sum payable by it, and such municipal corporation shall pay to the Commission interest on the amount that may be in arrear or for the payment for which time is extended until the payment thereof, at such rate not exceeding 7 per cent per annum, as the Commission determines. R.S.O. 1950, c. 281, s. 76.

**81.** Any surplus held by the Commission to the credit of any municipal Corporation may be retained by the Commission as security against future obligations to the Commission of the same municipal corporation for so long during the continuance of the contract of the municipal corporation as the Commission thinks fit, but the Commission shall allow to the municipal corporation interest at the rate of 4 per cent per annum upon the amount of such surplus retained by the Commission. R.S.O. 1950, c. 281, s. 77.

**82.** Where by contract with the Commission one or more municipal corporations have assumed the cost of the purchase of, or works for the development of, power for the supply of such municipality or municipalities under this Act, such municipality or municipalities shall, for the purpose of this Act, be defined as a "system", and the Commission, on such conditions as are deemed equitable or advisable, may include in any such system one or more other such municipalities, whether already part of any system or not, and may unite any two or more systems into one system, and may join in a system two or more such municipalities whether already part of any system or not, and for the purposes of this section an area set apart under section 70, or a rural power district, may be considered as a municipality. R.S.O. 1950, c. 281, s. 78.



Supplying  
power from  
one system  
to another

**83.**—(1) Wherever physical connections may be made between any of the systems operating under this Act, the Commission may make the necessary connections so as to divert power from any one system to any other system, and the means of such connection, and the price to be paid by the system receiving the power to the system supplying the power, shall in all cases be determined by the Commission, and the cost of the power so taken by any one system from any other shall be dealt with by the Commission under this Act as the cost or part of the cost of the power to be paid by the municipalities forming part of such system, under their contracts with the Commission.

Adjustment

(2) The price payable for power by one system to another shall be collected by the Commission from the system owing it, for the system entitled to receive it, and all sums so paid to any system shall be applied to the cost of construction, maintenance and operation of such system in such manner as the Commission directs. R.S.O. 1950, c. 281, s. 79.

Apportion-  
ment

**84.**—(1) The Commission shall annually adjust and apportion the amounts payable by municipal corporations under sections 78 to 83.

Annual  
adjustment

(2) The Commission shall also annually adjust and apportion among the municipal corporations all such expenditures made by the Commission in exercise of the powers conferred upon the Commission by this Act as have been incurred for or on behalf of the municipal corporations.

Adjustment  
to be final

(3) The adjustment and apportionment made by the Commission is final and binding upon the municipal corporations. R.S.O. 1950, c. 281, s. 80.

### PART III

#### SUPPLY OF POWER FOR STREET LIGHTING IN TOWNSHIPS

Contracts  
for street  
lighting in  
townships

**85.**—(1) Notwithstanding anything in this or any other Act, the council of a township may, without petition and without the assent of the electors, pass a by-law for entering into a contract with the Commission for the lighting of streets in the township.

Contents  
of by-law

(2) The by-law may,

- (a) define one or more street lighting areas in the township;
- (b) enlarge, reduce or alter the boundaries of any street lighting area in the township;

- (c) amalgamate any street lighting areas in the township;
- (d) provide that the cost of the street lighting works in any street lighting area in the township, including debenture charges, the cost of maintenance and management of the works and the cost of power supplied for street lighting under this Act, shall be assessed and levied on the rateable property in the area, or provide that such part of the cost as to the council seems proper shall be paid by the township and that the remainder of the cost shall be assessed and levied on the rateable property in the area, or provide that the entire cost shall be paid by the township; and
- (e) provide that the contract with the Commission shall apply to any street lighting area.

(3) Any street lighting area may be defined by the use of **Maps** a map or sketch to be attached to the by-law and the information shown on the map or sketch shall form part of the by-law to the same extent as if included therein.

(4) The corporation of the township may acquire or construct the works necessary for lighting the streets, and for such purpose the corporation of the township has and may exercise all the powers conferred upon townships under *The Municipal Act* or *The Local Improvement Act*. **Power of township to construct works**  
R.S.O. 1960, cc. 249, 223

(5) If the contract so provides, the Commission may, on behalf of the township, acquire, construct, extend, reconstruct, maintain, operate and administer any such street lighting works. 1958, c. 80, s. 2, *part*. **Power of Commission to construct works**

(6) Where under this section a township has entered into a contract with the Commission for the lighting of streets in one or more areas, the township may from time to time, without petition and without the assent of the electors, pass a similar by-law to provide that the contract shall also apply to any other street lighting area or areas in the township. 1960, c. 85, s. 9. **Power of township to extend application of street lighting agreement**

(7) The provisions of Part II with respect to the annual payments to be made by a municipal corporation that has entered into a contract with the Commission apply to any contract entered into under this section and extend to all street lighting works constructed under the contract, but do not apply in respect of the capital cost of works acquired or constructed by the township. 1958, c. 80, s. 2, *part*. **Where Part II to apply**

## PART IV

## DISTRIBUTION OF POWER IN RURAL POWER DISTRICTS

Contracts  
for supply  
of power

**86.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may contract with the corporation of a township, or townships, or with the corporations of two or more townships, for the supply and distribution by the Commission of power in the township or townships. R.S.O. 1950, c. 281, s. 84 (1).

Defining  
power  
districts

(2) There shall be two rural power districts, namely,

(a) the Northern Ontario Rural Power District comprising the Northeastern and Northwestern Regions as defined from time to time by the Commission; and

(b) the Southern Ontario Rural Power District comprising the remaining territory of Ontario,

and there shall be excluded from each of the rural power districts the areas of all municipal corporations and police villages that have contracted with the Commission for the supply of power at cost under sections 62, 64, 69 or 70, or that hereafter so contract, except that all persons who are supplied with power under section 72 and who are within the area of any such municipal corporation excluded from the Northern Ontario Rural Power District shall be deemed to be within the Northern Ontario Rural Power District. 1960, c. 85, s. 10.

Commission  
acts for  
corporation

(3) The Commission may, on behalf of the corporation,

(a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all lands and works necessary for the transmission to and the transforming and distributing in, any such rural power district of power;

(b) supply power to any customer of the corporation or at any premises in any such rural power district;

(c) perform, enjoy and enforce all contracts in which the corporation agrees to supply or sell power to any customer or at any premises in such rural power district.

Alterations  
of bound-  
aries

(4) The Commission may unite any two or more rural power districts in one rural power district and may join into a rural power district or may include in a rural power district one or more townships or any part or parts thereof whether already part of any rural power district or not and may alter the boundaries of any rural power district, and may thereupon utilize for the supply and distribution of power in any rural power district so formed or reconstituted or altered or that



may have been so formed or reconstituted or altered all or any part of the revenue that may be derived or may have been derived from any contract for the distribution of power made between the Commission and the corporation of any township forming such rural power district or any part thereof.

(5) Contracts in which the municipal corporation agrees to supply or sell power are sufficiently executed on behalf of the corporation if signed by its clerk or by such other officer as is designated by the council of the corporation. Signing of contracts

(6) The Commission may in its discretion use any of the revenue that may be derived or may have been derived from the distribution of power by the Commission on behalf of any township forming a rural power district or any part thereof for altering, reconstructing, rebuilding, re-assembling, constructing, extending, replacing or whatever else may be necessary in respect of works held by it under subsection 3, for the purpose of standardizing and making uniform to such extent and in such manner as it deems necessary the periodicity in alternations of current at which it supplies power to customers of the corporation or at premises pursuant to subsection 3. R.S.O. 1950, c. 281, s. 84 (3-6). Use of moneys for standardization of frequency

**87.** For the purposes of this Part, the Commission may exercise any of the powers that the Commission may exercise or be authorized to exercise under Part I and may upon such terms as it deems proper, sell, lease or otherwise dispose of any lands and works acquired or held for the purposes of this Part. R.S.O. 1950, c. 281, s. 85. Powers of Commission

**88.**—(1) Subject to the approval of the Lieutenant Governor in Council, where any Act of the Legislature sets apart lands as a park and provides for the appointment of a board of commissioners therefor and makes such board of commissioners a body corporate, such board may purchase from the Commission power for use in the park, and may sell power to customers therein and execute contracts accordingly and the Commission may contract with the board to supply and distribute such power. Right of park board to contract power

(2) Upon the execution of a contract between the Commission and any such board, the Commission may make any such park a rural power district or part of a rural power district or incorporate the whole or any part of such park in any rural power district and the provisions of this or any other Act applying to a rural power district are applicable. R.S.O. 1950, c. 281, s. 86. When park to be rural power district

**89.** When at the time of entering into the contract the corporation of any such township has been operating a system Commission may take over existing distribution system

for distributing power to inhabitants of the township, or has a contract with the Commission for a supply of power under any other Part of this Act, the Commission, with the approval of the council of the township, may take over, acquire, reconstruct, extend and operate such distribution system, and may perform, enjoy and enforce the contracts with the customers thereof, and may incorporate such system in a rural power district. R.S.O. 1950, c. 281, s. 87.

Police village  
not to be  
deemed  
separate  
corporation

**90.** Notwithstanding this Act, where the trustees of a police village have not a subsisting contract with the Commission, it shall not be considered a separate corporation from the township or townships out of which it was formed for the purposes of this Part. R.S.O. 1950, c. 281, s. 88.

Assent of  
electors not  
required to  
contract

**91.** The council of the township or the council of each of the townships entering into a contract under section 86 or 89 may pass a by-law for entering into the contract, and the corporation of the township may execute the contract, and it is not necessary to submit the by-law to the vote of the electors or to comply with any of the other formalities required in the case of a by-law under Part II. R.S.O. 1950, c. 281, s. 89.

Agreement  
as to  
supplying  
power in  
unorganized  
territory

**92.—(1)** The Commission may enter into an agreement or agreements with Her Majesty in right of Ontario providing for the supply and distribution of power by the Commission on behalf of the Province in unorganized townships, in provincial parks and in other territory without municipal organization and including under any such agreement from time to time any one or more of the areas that may be defined under subsection 2, and any such agreement, when executed by the President of the Executive Council, representing Her Majesty, and by the Commission, is valid and binding on Her Majesty in right of Ontario and on the Commission respectively.

Commission  
may define  
areas

**(2)** Subject to the approval of the Lieutenant Governor in Council, the Commission may define areas in unorganized townships, in provincial parks and in other territory without municipal organization; the Commission may make any such area or areas a rural power district or part thereof, or part of an existing rural power district; the Commission may alter, enlarge or diminish any such area and may incorporate the whole or any part of any such area in any other rural power district, but before adding to any area land not previously included in any area, the approval of the Lieutenant Governor in Council shall first be obtained; for the purposes of this section a rural power district includes any such district established under this section or under section 86.

(3) In any such area, the Commission may,

Supply of  
power

(a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all lands and works necessary for the transmission to and the transformation and distribution and supply of power in the area;

(b) distribute and supply power in the area;

(c) contract with any person for the supply of power in the area.

(4) Save as in this section provided, all other provisions in relation to rural power districts in this or any other Act apply to each such area and the distribution and supply of power therein. R.S.O. 1950, c. 281, s. 90.

Deemed  
rural power

**93.** All the provisions of Part II as to the annual payments to be made by the municipal corporations that have entered into contracts with the Commission apply to a contract entered into under this Part, and extend to the works constructed under the contract for transforming, distributing and supplying power in a rural power district except where the contract is with a municipal corporation for the supply of power from any of the works mentioned in section 64. R.S.O. 1950, c. 281, s. 91.

Application  
of Part II as  
to annual  
payments

**94.** The rates to be charged to customers receiving power from the Commission in a rural power district or any section thereof shall be fixed by the Commission under this Act. R.S.O. 1950, c. 281, s. 92.

Rates to be  
fixed by  
Commission

**95.** The Commission shall fix, adjust and apportion annually the cost of all the works mentioned in sections 86 and 89 to be borne by each of the municipal corporations entering into any such contract. R.S.O. 1950, c. 281, s. 93.

Apportion-  
ment of  
cost on  
annual  
adjustment

## PART V

### CONTROL AND REGULATION BY COMMISSION

**96.**—(1) Upon complaint in writing that a municipal corporation, company or person receiving power from the Commission is charging a rate that is excessive or unfair, or that any municipal corporation is making use of the powers conferred upon it by this Act for the purpose of granting a bonus by supplying power below cost to manufacturers or others, the chairman of the Commission may appoint a time and place at which the Commission or some member thereof will hear and determine the matter of the complaint, and such notice of the appointment as the chairman directs shall be

Complaints  
as to rates  
charged for  
power



given by the secretary of the Commission to such persons as the chairman directs.

Hearing of  
complaints  
and  
regulation  
of rates

(2) At the time and place appointed the Commission or a member thereof shall hear and determine the matter of the complaint, and may dismiss or allow the complaint, and may regulate and determine the rates to be charged, and may direct the amendment of any by-law or agreement accordingly, or may make such order as seems meet.

Powers of  
Commission  
on inquiry  
R.S.O. 1960,  
c. 323

(3) The Commission, or the member thereof hearing the complaint, have all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 281, s. 101.

Regulations

**97.**—(1) The Commission, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing the design, construction, installation, protection, use, maintenance, repair, extension, alteration, connection and disconnection of all works and matters used or to be used in the generation, transformation, transmission, distribution, delivery or use of power in Ontario;
- (b) prohibiting the use in Ontario of any such works or matters until they have been inspected and approved;
- (c) prohibiting the advertising, display, offering for sale, or other disposal, and the sale or other disposal, publicly or privately, in Ontario, of any such works or matters unless and until they have been inspected and approved, and prescribing the precautions to be taken in the sale or other disposal of such works or matters and the warnings and instructions to be given to purchasers and others in advertisements and by circular or otherwise in order to prevent their use in such manner or under such conditions as may be likely to result in undue hazard to persons or property;
- (d) providing for the inspection, test and approval of all such works and matters before being used for any such purposes.

Issuing of  
plans and  
specifications

(2) The Commission may prepare and issue plans and specifications governing the design, construction and test of any of the works or matters mentioned in subsection 1, and may amend or alter such plans and specifications.

Appointment  
of persons or  
associations  
to inspect  
and test

(3) The Commission may appoint persons or associations having, in the opinion of the Commission, special knowledge and facilities to inspect, test and report upon any of the works or matters mentioned in subsection 1.

(4) The Commission may approve of any of the works or matters mentioned in subsection 1 by adopting the report made pursuant to subsection 3 or otherwise as the Commission deems advisable. Approval by adoption of report

(5) The Commission may issue such orders relating to work to be done in the installation, removal, alteration, repair, protection, connection or disconnection of any of the works or matters mentioned in subsection 1 as the Commission deems necessary for the safety of the public, or of workmen, or for the protection of property. Orders relating to installations, alterations, etc.

(6) The Commission may appoint such inspectors and other officers as it deems necessary for the purposes of this section. Appointment of inspectorial staff

(7) The Commission may prescribe the fees to be paid for permits and for inspection, test and approval of all such works and matters mentioned in subsection 1 and of plans and specifications relating thereto, and may prescribe also the time and manner of payment of such fees. Fees for permits, inspection, test and approval

(8) The Commission shall collect the fees prescribed by it under the authority of subsection 7, and shall provide for the remuneration, travelling and other expenses of the inspectors and other qualified persons, together with all other expenses incurred in carrying out this section, out of such fees and out of any fines imposed for breach of any of the provisions of this section or of any regulations, plans, specifications or orders made under the authority thereof, and out of the funds appropriated for carrying out the work of the Commission. Collection and disposition of fees and fines

(9) Every inspector appointed under this section may enter upon, pass over or through any land, building or premises at any reasonable hour for the purpose of performing the duties assigned to him under this section. Powers of inspectors

(10) Nothing in this Act or in any of the regulations, plans, specifications or orders issued under this section renders the Commission or any of its inspectors or other employees liable, or affects the liability of any municipal or other corporation or commission, company, firm or individual, for any injury, loss or other damages caused to any person or property by reason of defects in any of the works or matters mentioned in this section or by reason of any order of the Commission, notwithstanding any inspection or test or the issue of any certificate by the Commission or by any of its inspectors or other employees. Liability

(11) Every municipal or other corporation or commission, and every company, firm or individual, Offences

- (a) hindering, molesting, disturbing or interfering with an inspector or other employee in the performance of his duty under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for each offence;
- (b) refusing or neglecting to comply with this section, or with any regulation, plan or specification made under its authority is guilty of an offence and on summary conviction shall be liable to a fine of not less than \$10 and not more than \$50 for each offence;
- (c) refusing or neglecting to comply with any order issued by the Commission under subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500 and a further fine of not less than \$100 and not more than \$500 for each and every day upon which such refusal or neglect is repeated or continued.

Disposition  
of fines

(12) The fines recovered for offences against this section shall be paid over to the Commission.

Section not  
to apply  
to mines  
R.S.O. 1960,  
c. 241

(13) This section does not apply to a mine as defined in *The Mining Act*, save only as regards any dwelling house or other building not connected with or required for mining operations or purposes or used for the treatment of ore or mineral. R.S.O. 1950, c. 281, s. 102 (1-13).

Debentures  
for extension  
or improve-  
ment not to  
be issued  
without  
approval of  
Commission

**98.**—(1) A municipal corporation that has entered into a contract with the Commission for the supply of power shall not pass a by-law for the issue of debentures, or borrow money by other means, for any extension or improvement to a power system without having first obtained the assent of the Commission to the amount of such issue and borrowing and the purposes to which the proceeds of the issue are to be applied.

Liability  
of members  
of council

(2) Every member of the council of a municipality passing a by-law in contravention of subsection 1 is personally responsible for any loss or expense occasioned to the municipal corporation by such action unless he shows that he voted against the passing of the by-law or did everything in his power to prevent the passing of the by-law.

By-law void

(3) Every by-law passed in contravention of subsection 1 is illegal and void, and the Commission may take the same proceedings for quashing the by-law, or restraining the municipal corporation from issuing debentures thereunder as might be taken by a ratepayer of the municipality.



(4) This section has effect notwithstanding the provisions of any other general or special Act relating to any municipal corporation. Section to have effect notwithstanding

(5) This section does not apply to any by-law or by-laws authorizing the issue of debentures to defray the cost of, or to repay temporary loans incurred in connection with any works mentioned in subsection 1, when the estimated cost of such works and the borrowing of the estimated cost has been approved by the Commission and the principal amount of the debentures so authorized does not exceed the estimated cost aforesaid by more than 5 per cent. Issue of debentures when Commission approves estimated cost

(6) Equipment, plant and works constructed and erected on petition only as defined in clause *n* of subsection 1 of section 2 of *The Local Improvement Act* shall be deemed not to be extensions or improvements within the meaning of this section. R.S.O. 1950, c. 281, s. 103. Restriction as to application of local improvement by-law R.S.O. 1960, c. 223

(7) For the purposes of this section, The Municipality of Metropolitan Toronto shall be deemed to be a municipal corporation that has entered into a contract with the Commission for the supply of power. 1955, c. 62, s. 13. Metropolitan Toronto

**99.**—(1) The rates and charges for supplying power, and the rents and charges to meet the cost of any work or service done or furnished for the purposes of a supply of power, chargeable by any municipal corporation generating or receiving and distributing power are subject at all times to the approval and control of the Commission, and the rates, and such rents and charges, charged by any company or individual receiving power from the Commission for the supply of power are subject at all times to such approval and control. 1956, c. 66, s. 5. Rates and charges to be approved

(2) Notwithstanding this Act, the Commission may from time to time, when in its opinion it is in the interests of the municipal corporations under contract with the Commission so to do, make orders fixing the rates to be charged by the corporation or commission of any municipality having a population of less than 200,000 for power supplied by the Commission. Powers as to fixing municipal rates

(3) In a municipality where the rates fixed by the Commission under subsection 2 prove insufficient to provide for the costs of supplying power in the municipality, the Commission may charge the deficit to the stabilization fund account and may from time to time impose such terms as to repayment of the amount so charged together with interest thereon, or any part thereof, or may relieve the municipality from obligation to repay the same to such extent as to the Where amount collected proves insufficient

Commission seems just and equitable. R.S.O. 1950, c. 281, s. 104 (2, 3).

System of  
bookkeeping

**100.**—(1) The Commission may prescribe for any municipal corporation or municipal commission receiving electrical power from the Commission for distribution a system of bookkeeping and keeping accounts of the assets, liabilities, revenues and expenditures in respect of the production, development, distribution or sale of electrical power or the dealing in electrical fittings, fixtures, appliances, machines or equipment.

Returns and  
statements

(2) The Commission may require from any municipal corporation or municipal commission that owns, operates, controls or manages an electrical public utility receiving electrical power from the Commission for distribution such returns and statements as the Commission deems proper, and the Commission shall have access to and the right to inspect the books, records, minutes, statements and returns relating to such electrical public utility and to extract therefrom such information as in the opinion of the Commission may be useful for publication and to embody any of the information in the reports of the Commission. R.S.O. 1950, c. 281, s. 105.

Insurance  
by municipi-  
palities

**101.**—(1) Subject to subsections 2, 3 and 7, every municipal corporation and municipal commission supplied with electrical power by the Commission shall maintain insurance against liability for bodily injury and property damage arising from the operation of an electrical utility in such amount and upon such terms as the Commission directs.

Insurance  
fund

(2) A municipal corporation or municipal commission may, with the approval of the Commission, establish in lieu of such insurance a fund sufficient in the opinion of the Commission to protect the municipal corporation or municipal commission against the liability and thereupon it is not necessary for it to comply with subsection 1.

Where in-  
surance not  
necessary  
R.S.O. 1960,  
c. 437

(3) If a municipal corporation or municipal commission is in shedule 1 of the regulations made under *The Workmen's Compensation Act* and is paying assessments to the Workmen's Compensation Board, it is not necessary for it to maintain insurance against liability for bodily injury to its employees.

Group in-  
surance for  
municipi-  
palities  
R.S.O. 1960,  
c. 190

(4) Notwithstanding anything in *The Insurance Act* or in any other Act, the Commission may effect insurance on behalf of municipal corporations or municipal commissions that it supplies with electrical power against liability for bodily injury and property damage arising from the operation of an electrical utility.

(5) The contract of insurance effected under subsection 4 may, if desired by the Commission, include the Commission as a party insured against liability and may protect more than one municipal corporation or municipal commission.

Commission  
included in  
group  
insurance

(6) The cost of insurance effected under subsection 4 is, except in so far as it is for the protection of the Commission, chargeable to the protected municipal corporations or municipal commissions as part of the cost of power payable by them.

How cost  
chargeable

(7) Where a municipal corporation or municipal commission is an insured party under a contract of insurance effected under subsection 4, it is not necessary for it to comply with subsection 1. 1951, c. 67, s. 11.

Where  
insurance  
under subs. 1  
not necessary

**102.** Where it appears to the Commission upon examination of the accounts of a municipal corporation or municipal commission receiving power from the Commission under a contract between the municipal corporation and the Commission under this Act that there are arrears due and owing for electrical power supplied by the municipal corporation or municipal commission, or for rents, rates, costs and charges in connection with the service or supply of such power or for the installation of any works for such service or supply, and that the municipal corporation or municipal commission has not taken the necessary proceedings for the collection of such arrears, the Commission may give, in writing, such directions as it deems proper, signed by the chairman or secretary, for the collection of the arrears by any method by which they may be collected, and it is the duty of the municipal corporation or municipal commission forthwith after receiving such directions to take all proceedings necessary to carry them into effect. R.S.O. 1950, c. 281, s. 108.

Collection of  
arrears on  
direction  
from Com-  
mission

**103.** Where a municipal corporation or a municipal commission receiving electrical power from the Commission under a contract made with the Commission under this Act,

Offences

- (a) supplies electrical power to any person upon terms and at rates other than those that have been approved of by the Commission;
- (b) grants to any person to whom electrical power is supplied by the municipality or commission, special terms by way of bonus or otherwise as to the rates to be paid for electrical power or as to the terms at which they are to be supplied;
- (c) neglects or refuses to carry out any direction of the Commission given under section 102;



- (d) by any means whatsoever, directly or indirectly reduces the cost of electrical power to any person so that it is supplied to such person at a lower rate or upon better terms than those approved of by the Commission;
- (e) fails to keep accounts in the manner prescribed by the Commission or makes improper entries therein, or charges against any account items not properly chargeable thereto,

Disqualifi-  
cation of  
councillor  
or commis-  
sioner

R.S.O. 1960,  
c. 249

such municipal corporation or municipal commission is guilty of an offence, and every member of the municipal council of such municipal corporation or every member of the municipal commission, as the case may be, is disqualified from sitting and voting in the council or from election thereto, or from acting as a member of the municipal commission or being appointed thereto, and from holding any other municipal office for a period of five years from the date of judgment or order declaring his disqualification, and proceedings may be taken against him in the same manner as in the case of a member of a municipal council who has become disqualified or has forfeited his seat under *The Municipal Act*; provided that no member of the municipal council or of the municipal commission, as the case may be, shall be found to be so disqualified who proves to the satisfaction of the court or judge before whom the application for a declaration of his disqualification is made, that he was not a party to the offence and that he did everything in his power to prevent the commission of the offence. R.S.O. 1950, c. 281, s. 109.

When  
default made  
Commission  
may take  
action

**104.** When a municipal corporation or a municipal commission neglects or refuses to carry out any of the provisions of this Act or any direction or regulation lawfully given or made under this Act, the Commission, if it deems it necessary or desirable so to do, may appoint some person to do whatever is necessary to remedy such neglect or default and to comply with this Act or any such direction or regulation, and the reasonable and proper costs and charges incurred by the Commission in so doing is a debt due and payable by the municipal corporation or municipal commission to the Commission and shall be added to and collected with the charges set out in section 78. R.S.O. 1950, c. 281, s. 110.

Utilization  
of funds

**105.** A municipal corporation or municipal commission receiving power from the Commission for distribution may, subject to the approval of the Commission, utilize funds in its hands derived from or pertaining to the electric utility for which such power is received and not required for current

operating expenses or current working capital thereof for any of the following purposes and not otherwise:

1. In the reduction of any indebtedness incurred with respect to the construction and equipment of works for the production, development, distribution or sale of power.
2. In purchasing or otherwise acquiring a site and erecting thereon buildings for the occupation and use of the municipal commission as offices and for other business purposes, subject to the approval by the Commission of the site and cost of the plans of any such building, and, subject to such approval, any such office building may be larger than is required for the immediate use of the municipal commission, and any part of such building not immediately required for the use of the municipal commission may be leased by it to the municipal corporation or to any other municipal commission for the purpose of any public utility in the municipality.
3. In the renewal of such buildings.
4. In the extension of works for the production, development, distribution or sale of power.
5. In the alteration, reconstruction, rebuilding, re-assembling, construction, replacing or whatever else may be necessary in respect of such works for the purpose of receiving from the Commission and distributing power at a changed periodicity in alternations of current.
6. In the purchase of debentures or other securities of Canada or of Ontario, or in securities guaranteed as to principal and interest by either of them. R.S.O. 1950, c. 281, s. 111; 1951, c. 67, s. 12.

**106.**—(1) Whenever it appears from the accounts of a municipal corporation or municipal commission receiving electrical power from the Commission for distribution that there is a surplus of revenue derived from or pertaining to an electric utility over the expenses thereof after providing for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the production, development, distribution or sale of electrical power, and for such depreciation and other reserves as the Commission deems proper, the surplus shall be applied and disposed of in such manner as the Commission by general regulation or special order directs. R.S.O. 1950, c. 281, s. 112 (1); 1956, c. 66, s. 6.

When accounts of a corporation show a surplus

Application  
of section

(2) Subsection 1 applies to every municipal corporation or municipal commission that has entered into a contract with the Commission for the supply of electrical power and has effect notwithstanding any general or special Act, and shall be deemed so to have applied and to have had effect since the 16th day of April, 1912.

Liability for  
misapplica-  
tion of funds

(3) Any member of the council of a municipal corporation and any member of a municipal commission where such municipal corporation or municipal commission is receiving electrical power from the Commission for distribution by an electric utility who is in any manner a party to any disposition or application of a surplus referred to in subsection 1 other than that directed by the Commission, or to any disposition, use, application or dealing with funds pertaining to such electric utility in any manner prohibited by this or any other Act shall forfeit his office and proceedings may thereupon be taken against him as provided in *The Municipal Act* in the case of a member of a municipal council who has become disqualified, and the Commission may take the same proceedings in respect thereof as might be taken by a ratepayer of the municipality.

R.S.O. 1960,  
c. 249

Disqualifi-  
cation

(4) If it is found upon such proceedings that such member of the municipal council or commission has forfeited his office, he is disqualified from holding any municipal office for a period of two years thereafter. R.S.O. 1950, c. 281, s. 112 (2-4).

Orders of  
Commission,  
penalty for  
disobeying

**107.** A municipal corporation or municipal commission and any company or individual neglecting or refusing to obey and carry out any order, regulation, prohibition or direction of the Commission or of a member thereof made under section 96, or any order, regulation, prohibition or direction of the Commission made under sections 75, 97, 99, 100, 101, 102, 103 and 106, in addition to any other liability, shall forfeit to Her Majesty for the use of Ontario, the sum of \$100 for each day during which such neglect or refusal continues. R.S.O. 1950, c. 281, s. 113.

Ordering  
wires under  
ground

**108.**—(1) Where the Commission is of opinion that it is necessary or expedient for the protection of life or property, or for the convenience of the public, that the use of overhead lines upon any highway or part thereof in a city or town, including the wires of telegraph, telephone, or power companies, should be discontinued, the Commission may so direct, and, upon such terms and subject to such conditions as it prescribes, may require that such wires be placed and carried in underground conduits to be constructed and maintained in accordance with the directions and to the satisfaction of the Commission, and may abrogate any right to carry lines on



poles in such city or town that may have been given by any Act or by any municipal by-law, licence or agreement.

(2) In this section, as in sections 109 and 110,

Interpre-  
tation

- (a) "lines" means the wires, cables or other conductors used for the purpose of conveying or distributing power for telegraph, telephone or power purposes;
- (b) "company" includes a municipal corporation or municipal commission, a partnership and an individual, owning, leasing, using or controlling lines in a city or town. R.S.O. 1950, c. 281, s. 114.

**109.**—(1) Where a city or town is willing to undertake the construction of a tunnel, conduits or other system for carrying lines underground in any highway or part thereof, the Commission, upon such terms and subject to such conditions as it prescribes, may require all companies whose lines are carried overhead upon any such highway or public communication to make use of such tunnel or conduits or other system for the purpose of carrying their lines, and to pay to the municipality such compensation for the use thereof as is agreed upon or as the Commission determines, and such compensation may be either a lump sum or a sum to be paid annually or periodically as the Commission determines and directs. R.S.O. 1950, c. 281, s. 115.

Construction  
of tunnel

(2) Where a city or town desires to construct a tunnel, conduits or other system for the purpose mentioned in sub-section 1, it may do so and may exercise in respect thereof the powers of expropriation conferred upon the corporation by *The Municipal Act*. R.S.O. 1950, c. 281, s. 116.

Powers of  
corporation  
of city or  
town

R.S.O. 1960,  
c. 249

(3) All works undertaken under this section shall be done in accordance with the directions and to the satisfaction of the Commission, and shall be maintained, kept in repair, altered, enlarged or improved to the satisfaction of the Commission and as it directs. R.S.O. 1950, c. 281, s. 117.

Works  
subject to  
direction of  
Commission

**110.** If any order or direction of the Commission for discontinuing the use of overhead lines is not obeyed, the lines, poles and other structures in connection therewith upon the highway shall be deemed to be unlawfully erected and maintained, and may be removed by or under the direction of the Commission and at the expense of the owner or user of them, and the company owning or using such lines shall incur a penalty of \$100 for each day during which the order of the Commission is disobeyed. R.S.O. 1950, c. 281, s. 118.

Overhead  
lines, dis-  
obedience  
of orders  
respecting

## PART VI

## MUNICIPAL COMMISSIONS

Municipal  
commissions  
to be estab-  
lished  
R.S.O. 1960,  
c. 335

**111.**—(1) Except as provided in this section, notwithstanding anything in any general or special Act, subsection 3 of section 40 of *The Public Utilities Act* applies in every city and town that has entered into a contract with the Commission for the supply of power and a commission shall be established under Part III of *The Public Utilities Act* for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of power.

Municipal  
commission,  
how com-  
posed in city  
of 60,000  
or over

(2) Notwithstanding *An Act respecting the City of Toronto*, being chapter 119 of the Statutes of Ontario, 1911, in a city having a population of 60,000 or over according to the last enumeration of the assessor, the corporation of which has entered into a contract with the Commission under this Act, the commission to be established for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of power shall consist of three members, one of whom shall be the mayor of the city, one of whom shall be appointed by the municipal council of the city for two years and until his successor is appointed, and the third of whom shall be appointed by the Commission for two years and until his successor is appointed, and such appointees are eligible for re-appointment. R.S.O. 1950, c. 281, s. 120, *amended*.

Appointment  
of successor  
to commis-  
sioner  
appointed by  
Commission

(3) If an appointed member of a commission referred to in subsection 2 dies, or wishes to resign, or refuses to act, or becomes unable from any cause to perform his duties, the municipal council or the Commission, as the case may be, may appoint a successor in his stead for the remainder of his term of office, and such successor is eligible for re-appointment. 1952, c. 77, s. 8, *amended*.

Agreement  
to extend  
to municipal  
commissions,  
boards, etc.

**112.** Where by this Act or by any contract heretofore or hereafter entered into between the Commission and a municipal corporation, duties are imposed upon or covenants or undertakings are entered into by the municipal corporation, they extend to and shall be deemed to include and are binding upon any commission having the management or control of any public utility or other municipal undertaking for and on behalf of the municipal corporation, and any board of education, board of high school trustees or board of public school trustees appointed or elected for the municipality represented by the municipal corporation. R.S.O. 1950, c. 281, s. 121.

## CHAPTER 301

## The Power Commission Insurance Act

## 1. In this Act,

Interpre-  
tation

(a) "Commission" means The Hydro-Electric Power Commission of Ontario;

(b) "insurance corporation" means a corporation licensed to transact the business of insurance and enter into contracts for insurance in Ontario under *The Insurance Act*;

R.S.O. 1960  
c. 190

(c) "municipal authority" means a municipal corporation or commission distributing electrical power or energy in a municipality. R.S.O. 1950, c. 282, s. 1.

2.—(1) The Commission may enter into an agreement with any municipal authority or group of municipal authorities authorizing the Commission to contract with an insurance corporation or with Her Majesty pursuant to the *Government Annuities Act* (Canada) for insurance for the employees of such municipal authority or municipal authorities by way of service annuities, income annuities or death or disability benefits or such other benefits as may by the Commission be deemed expedient and for payment by the municipal authority or authorities of the cost of such insurance and the cost of or incidental to the administration and operation of the contract, and any other expenses incurred or for which the Commission may be liable in connection therewith.

Agreement  
between  
Commission  
and muni-  
cipal  
authority  
R.S.C. 1952,  
c. 132

(2) The Commission on behalf of any such municipal authority or group may, with the approval of the Lieutenant Governor in Council, enter into an agreement with an insurance corporation or with Her Majesty pursuant to the *Government Annuities Act* (Canada) for providing insurance for the employees of such municipal authority or group by way of service annuities, income annuities or death or disability benefits, or such other benefits as may by the Commission be deemed expedient, and for the enforcement of any such contract and for the administration of its operation by the Commission or by any other person or corporation on behalf of such municipal authority or group.

Agreement  
with  
insurance  
corporation

(3) Notwithstanding anything in subsection 1 or in any agreement made thereunder, the Commission, with the ap-

Power to  
amend



R.S.C. 1952,  
c. 132

proval of the Lieutenant Governor in Council, may enter into further agreements with any such insurance corporation or with Her Majesty pursuant to the *Government Annuities Act* (Canada) varying, adding to or modifying as the Commission deems necessary or advisable any agreement entered into under subsection 2 or this subsection and every such further agreement is legal, valid and binding upon each municipal authority on behalf of which it is entered into and upon the successors and assigns of such municipal authority. R.S.O. 1950, c. 282, s. 2.

Cost of  
insurance,  
how borne

**3.—(1)** The cost of insurance and the cost of and incidental to the administration and operation of the contract and any other expenses incurred or for which the Commission may be liable in connection therewith is payable by each of the municipal authorities on whose behalf the contract is undertaken as part of the cost of operation of the works of the municipal authority and shall be apportioned and distributed by the Commission among the municipal authorities in any such group in such manner as the Commission deems equitable.

Regulations

**(2)** The Commission, with the approval of the Lieutenant Governor in Council, may make regulations prescribing the terms and conditions for the required payments under subsection 1, and the time and manner in which such payments shall be made and the returns and accounts to be furnished by any municipal authority and the contributions to be made by the employees of any municipal authority party to the agreement. R.S.O. 1950, c. 282, s. 3.

Agreement  
between  
municipal  
authority  
and Her  
Majesty

**4.** Upon the recommendation of the Commission and with the approval of the Lieutenant Governor in Council, a municipal authority may enter into an agreement with Her Majesty pursuant to the *Government Annuities Act* (Canada) for providing insurance for the employees of such municipal authority by way of service annuities, income annuities or death or disability benefits, or such other benefits as may by the Commission be deemed expedient. R.S.O. 1950, c. 282, s. 4.

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## CHAPTER 302

**The Power Control Act****1. In this Act,****Interpre-  
tation**

- (a) "Commission" means The Hydro-Electric Power Commission of Ontario;
- (b) "land" means real property of whatsoever nature or kind, and includes tenements, hereditaments and appurtenances, any estate, term, easement, right or interest in, to, over, under or affecting land, and water rights, water powers and water privileges;
- (c) "owner" includes a mortgagee, lessee, tenant, occupant, or any person entitled to any estate or interest in land or works, and a guardian, committee, executor, administrator or trustee in whom land or works or any property or interest therein is vested;
- (d) "power" includes any hydraulic, electrical, steam or other power and also includes energy;
- (e) "regulations" means the regulations made under this Act;
- (f) "supply" includes delivery, dealing in, and sale;
- (g) "works" includes all property, plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment constructed, acquired or used in the generation, transformation, transmission, distribution, supply or use of power. R.S.O. 1950, c. 283, s. 1.

**2. The Commission has authority to regulate and control** **Powers of Commission**  
the generation, transformation, transmission, distribution, supply and use of power in Ontario, and, without limiting the generality of the foregoing, the Commission may,

- (a) restrict or prohibit the supply or use of power or the supply or use of power to or by any person and divert or apportion power or give priority or preference to any user of power in order to effect what is in the opinion of the Commission the most economical, efficient and equitable use and distribution of power;

- (b) direct any owner to generate or supply power at any specified rate not exceeding the full capacity of his works;
- (c) hear and decide any dispute between any owner and any user of power concerning any matter over which the Commission has jurisdiction under this Act and make such direction as it deems proper in accordance with its decision;
- (d) decide and direct to whom, at what prices and under what conditions power may be supplied; and
- (e) do such acts and give such directions as may be necessary for the carrying out or enforcement of the provisions of this Act and the regulations. R.S.O. 1950, c. 283, s. 2.

## Regulations

**3.** Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations,

- (a) requiring any owner to furnish to the Commission information regarding,
  - (i) his land and works including the capacity, output, cost and use thereof,
  - (ii) his assets, liabilities, revenues, expenses and operations, and
  - (iii) the supply of power by him to other persons including particulars of quantities, prices, terms, conditions, points of delivery and use;
- (b) requiring any person to furnish to the Commission information regarding the supply of power to him, including particulars of quantities, prices, terms, conditions, points of delivery and use, and by whom supplied;
- (c) prescribing the manner of deciding and determining preferences and priorities in the supply and use of power and providing for the apportioning of power among different users or classes of users and the diversion of power from one or more users or classes of users to other users or classes thereof;
- (d) restricting or prohibiting the supply or use of power for any particular purpose;
- (e) providing for the setting of prices at which and for the fixing of terms and conditions under which power may be supplied in Ontario, either generally or for one or more users or classes of users;



- (f) providing for the entry upon and inspection of land and works including the making of inventories and valuations thereof, the examination of books, accounts, records and documents relating thereto and generally the obtaining of information in connection therewith;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 283, s. 3.

4. When any owner or other person is unable to supply power under any contract or obligation because of compliance with this Act or the regulations or any direction of the Commission made thereunder, such owner or other person is relieved from all liability for his failure to supply power on account of such inability. R.S.O. 1950, c. 283, s. 4.

5.—(1) Where the Commission is satisfied that an owner is not using his land and works, or either of them, to full capacity or best advantage for the generation or supply of power or is neglecting or refusing to comply with a direction of the Commission or the provisions of this Act or the regulations, the Commission may purchase or acquire and may, without the consent of the owner, enter upon, take and expropriate any of his lands or works that it deems necessary for the generation, transformation, transmission, distribution or supply of power.

(2) Where lands or works are purchased, acquired, entered upon, taken or expropriated under this section, the Commission, in its discretion, may acquire absolute title or a limited estate, right or interest therein either on a rental basis or otherwise as it deems desirable in the circumstances, provided that whether or not it acquires absolute title to any such land or works, the Commission may use such land and works in such manner as it deems proper and may divert water therefrom, close, repair, rehabilitate, extend, improve or reconstruct such works and may construct other works in lieu thereof or in addition thereto.

(3) The provisions of *The Power Commission Act* and *The Public Works Act* as to the purchase, acquisition, entry upon, taking and expropriation of land and the fixing, payment and application of compensation therefor apply *mutatis mutandis* to the purchase, acquisition, entry upon, taking and expropriation of land and works under this Act, but where any of the provisions of *The Power Commission Act* conflict with any of the provisions of *The Public Works Act*, the former prevail. R.S.O. 1950, c. 283, s. 5.

## Offences

**6.**—(1) Every owner or other person who contravenes any of the provisions of this Act or the regulations or who neglects or refuses to comply with any direction of the Commission is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not more than \$5,000, for a second offence, to a fine of not more than \$10,000 and for a subsequent offence, to a fine of not more than \$25,000, and where such owner or other person is a corporation, the president, directors and the manager or other person in charge are each personally liable to a similar fine.

Disposition  
of fines

(2) The fines recovered for offences against this section are payable to the Commission. R.S.O. 1950, c. 283, s. 6.

Other  
powers of  
Commission

R.S.O. 1960,  
c. 300

**7.**—(1) In exercising or performing any power or duty conferred or imposed upon it by this Act or the regulations the Commission has and may exercise any authority, right, power, privilege or immunity that it possesses under *The Power Commission Act* or any other Act or under any other authority.

## Idem

(2) The powers conferred by this Act shall be deemed to be in addition to and not in derogation of any power conferred upon the Commission by any other Act, but where the provisions of any other Act conflict with the provisions of this Act, the latter prevail. R.S.O. 1950, c. 283, s. 7.

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## CHAPTER 303

### The Powers of Attorney Act

1. Where a power of attorney for the sale or management of real or personal estate, or for any other purpose, provides that it may be exercised in the name and on behalf of the heirs or devisees, executors or administrators of the person executing it, or provides by any form of words that it shall not be revoked by the death of the person executing it, such provision is valid and effectual, subject to such conditions and restrictions, if any, as are therein contained. R.S.O. 1950, c. 284, s. 1.

Express  
provision for  
exercise after  
decease of  
constituent

2.—(1) Independently of such special provision in a power of attorney, every payment made and every act done under and in pursuance of a power of attorney, or a power, whether in writing or verbal, and whether expressly or impliedly given, or an agency expressly or impliedly created, after the death of the person who gave such power or created such agency, or after he has done some act to avoid the power or agency, are, notwithstanding such death or act, valid as respects every person who is a party to such payment or act, to whom the fact of the death, or of the doing of such act, was not known at the time of such payment or act *bona fide* made or done, and as respects all claiming under such last-mentioned person.

Validity  
of acts or  
payments  
*bona fide*  
after decease  
or revocation

(2) Nothing in this section affects the right of any person entitled to the money against the person to whom the payment is made, and the person so entitled has the same remedy against the person to whom the payment is made as he would have had against the person making the payment. R.S.O. 1950, c. 284, s. 2.

Saving





## CHAPTER 304

### The Prepaid Hospital and Medical Services Act

**1. In this Act,**

Interpre-  
tation

- (a) "association" means any company or corporation incorporated for the purpose of establishing, maintaining and operating a hospital or medical service on a non-profit prepayment basis, whereby any one or more of hospital, medical, surgical, nursing or dental services or payment therefor may be provided to persons who become subscribers with, or members of, such company or corporation, or for these and similar purposes, but does not include an insurer licensed under *The Insurance Act* or a pension fund or employees' mutual benefit society incorporated under Part VI of *The Corporations Act*; R.S.O. 1960, c. 190
- (b) "Superintendent" means the Superintendent of Insurance under *The Insurance Act*. R.S.O. 1950, c. 285, s. 1. R.S.O. 1960, c. 71

**2.** Every association registered under this Act is exempt from *The Insurance Act*. R.S.O. 1950, c. 285, s. 2. Registered associations exempt from R.S.O. 1960, c. 190

**3.** No letters patent granting a charter to an association shall be issued under *The Corporations Act* without the written approval of the Superintendent. R.S.O. 1950, c. 285, s. 3. Incorporation

**4.** No association shall, in Ontario, contract to furnish hospital, medical, surgical, nursing or dental service, or any combination of them, on a prepayment basis or make payment therefor unless registered under this Act. R.S.O. 1950, c. 285, s. 4. No association to carry on business unless registered

**5.—(1)** Every application for registration shall be made in writing to the Superintendent and shall be accompanied, Application for registration

(a) by the prescribed fee;

(b) by a certified copy of the Act or other instrument of incorporation of the association and of its constitution, by-laws and regulations;

- (c) by a copy of every contract or proposed contract with a hospital, physician and other person for the rendering of services to subscribers or members;
- (d) by a copy of every form of contract or proposed contract with subscribers or members;
- (e) by a certified list of rates charged or to be charged to subscribers or members together with details for the benefits that the association contracts to furnish to subscribers or members;
- (f) by a copy of the balance sheet of the association and a statement of income and expenditures as of the close of its last fiscal year, certified by the president, or vice-president, and the managing director or some other principal officer of the association and reported on by its auditor;
- (g) by such information or material as the Superintendent requires.

Registration  
to be  
granted by  
Superin-  
tendent

(2) The Superintendent shall grant registration to an association if he is satisfied,

- (a) that the applicant is established as a *bona fide* association;
- (b) that the contracts and proposed contracts with hospitals, physicians or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers or members are fair and reasonable;
- (c) that the applicant has established and has such working capital and reserves as the Superintendent deems adequate; and
- (d) that the applicant has complied with the provisions of subsection 1. R.S.O. 1950, c. 285, s. 5.

Application  
for renewal  
of regis-  
tration

**6.—(1)** Every application for renewal of registration shall be made in writing to the Superintendent on or before the 21st day of March in each year and shall be accompanied by the prescribed fee and such information and material as the Superintendent requires.

Renewal of  
registration

(2) The Superintendent shall grant renewal of registration to an association if he is satisfied,

- (a) that the contracts and proposed contracts with hospitals, physicians or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers and members are fair and reasonable;



(b) that the applicant has such working capital and reserves as the Superintendent deems adequate; and

(c) that the applicant has complied with subsection 1. R.S.O. 1950, c. 285, s. 6.

**7.** Every registration and renewal of registration lapses on the 31st day of March in each year. R.S.O. 1950, c. 285, s. 7. Termination and renewal of registration

**8.** The Superintendent may suspend or cancel any registration upon any grounds that would justify refusal to grant registration or renewal of registration or where the association fails to comply with any provision of this Act. R.S.O. 1950, c. 285, s. 8. Suspension and cancellation

**9.** The Superintendent may at the request of an association, evidenced as he directs, cancel its registration. R.S.O. 1950, c. 285, s. 9. Cancellation by request of association

**10.** Notwithstanding any decision of the Superintendent, a further application for registration or renewal of registration may be made upon new or other material or where it is clear that any material circumstance has changed. R.S.O. 1950, c. 285, s. 10. Further application for registration

**11.—(1)** An association that deems itself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal. Appeal

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of. When to be set down

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action. Procedure

(4) The Superintendent shall certify to the Registrar of the Supreme Court the decision appealed from, his reasons therefor, and the documents, information and material he had before him in making such decision. R.S.O. 1950, c. 285, s. 11. Record

**12.—(1)** Every registered association shall deliver to the Superintendent within one month of the passing thereof a certified copy of any by-law passed by the board of directors. Filing of by-laws

(2) Not later than four months after the expiration of its fiscal year, every registered association shall file with the Superintendent a balance sheet and a statement of income and expenditures for such fiscal year, certified by the president, or vice-president, and the managing director or some other Filing of balance sheet, etc.

principal officer of the association and reported on by its auditor, and such other financial statements as the Superintendent requires.

Time for  
filing may  
be extended

(3) On sufficient cause shown, the Superintendent may by writing extend the time for filing the statements required under subsection 2. R.S.O. 1950, c. 285, s. 12.

General  
statement  
of affairs

**13.**—(1) Not later than four months after the expiration of its last fiscal year, every registered association shall prepare a general statement of its affairs in a form approved by the Superintendent.

Time may be  
extended for  
preparation

(2) On sufficient cause shown, the Superintendent may by writing extend the time for the preparation of a general statement of affairs under subsection 1.

Statement  
to be  
attested

(3) Every such statement shall be attested by the signature of the president, or vice-president, and the managing director or some other principal officer of the association and shall be accompanied by the auditor's report.

Copies to  
subscribers  
on request

(4) A copy of such statement shall be mailed or delivered without charge to any subscriber or member who requests a copy. R.S.O. 1950, c. 285, s. 13.

Inspection  
of books, etc.

**14.**—(1) The Superintendent or his duly authorized representative may at any time make or cause to be made an inspection of the books, documents and records of any registered association.

Access to  
books, etc.

(2) Upon any such inspection, the Superintendent or his duly authorized representative is entitled to free access to all books of account, cash, securities, documents, bank accounts, vouchers, correspondence and records of every description of the association, and no person shall withhold, destroy, conceal or refuse to furnish any information or thing reasonably required by the Superintendent or his representative under this section. R.S.O. 1950, c. 285, s. 14.

Investments  
allowed

R.S.O. 1960,  
c. 71

**15.** A registered association may invest its funds in any securities in which a joint stock insurance company may invest its funds under *The Corporations Act*. R.S.O. 1950, c. 285, s. 15.

Power to  
hold real  
property

**16.**—(1) A registered association may hold real property which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real property conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of

such real property, but the association shall sell any such real property within seven years after it has been so acquired.

(2) A registered association may hold to its own use and <sup>idem</sup> benefit such real property as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of such real property.

(3) A registered association, when authorized by its letters patent or by the Lieutenant Governor in Council, may <sup>Power to acquire and construct building</sup> construct on any lands held pursuant to subsection 2, or may acquire, a building larger than is required for the transaction of its business and may lease any part of the building not so required. R.S.O. 1950, c. 285, s. 16.

**17.** The fee for registration or renewal of registration for an association is, where the income from subscribers or mem- <sup>Fees for registration and renewal</sup> bers in the previous fiscal year,

did not exceed \$15,000.....	\$ 10
exceeded \$15,000 but did not exceed \$50,000.....	15
exceeded \$50,000 but did not exceed \$100,000.....	25
exceeded \$100,000 but did not exceed \$250,000.....	50
exceeded \$250,000 but did not exceed \$1,000,000....	100
exceeded \$1,000,000.....	200

R.S.O. 1950, c. 285, s. 17.

**18.** Every association not registered under this Act that contracts to furnish hospital or medical service on a prepay- <sup>Offence to carry on business unless registered</sup> ment basis or makes payment therefor is guilty of an offence and on summary conviction is liable to a fine of \$20 for each day during which the association carries on such business. R.S.O. 1950, c. 285, s. 18.

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## CHAPTER 305

**The Private Hospitals Act****1. In this Act,****Interpre-  
tation**

- (a) "Commission" means the Hospital Services Commission of Ontario;
- (b) "Department" means the Department of Health;
- (c) "house" means a building or other structure, whether permanent or temporary, intended for human habitation and, where two or more houses are situate on adjacent pieces of land and are occupied by the same person, they shall be deemed to constitute a single house for the purposes of this Act;
- (d) "inspector" means an officer of the Commission or of the Department designated under this Act as an inspector;
- (e) "Minister" means the Minister of Health;
- (f) "patient" means a person admitted to a private hospital for the purpose of treatment;
- (g) "private hospital" means a house in which four or more patients are or may be admitted for treatment, other than,
  - (i) a hospital or other establishment or institution supported in whole or in part by provincial aid,
  - (ii) an institution in respect of which a licence under *The Private Sanitaria Act* is in force, R.S.O. 1960,  
c. 307
  - (iii) an institution for the reclamation and cure of habitual drunkards established under *The Municipal Act*, R.S.O. 1960,  
c. 249
  - (iv) a house registered under *The Maternity Boarding Houses Act*, R.S.O. 1960,  
c. 231
  - (v) a lodging house licensed under a municipal by-law;
- (h) "regulations" means the regulations made under this Act;

- (i) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a private hospital;
- (j) "treatment" means the maintenance, observation, nursing and medical care and supervision of a patient. 1957, c. 94, s. 1.

Adminis-  
tration and  
enforcement  
of Act

**2.** The Commission shall administer and enforce this Act and the regulations. 1957, c. 94, s. 2.

Licence  
for private  
hospital

**3.—**(1) No house shall be used by any person as a private hospital except under the authority of a licence issued by the Commission under this Act.

Offence

(2) Where a house is used as a private hospital in contravention of subsection 1, the occupier and all persons concerned in the management of the house or in the admission to or treatment of any patient therein are severally guilty of an offence and on summary conviction are liable to a fine of not more than \$25 for every day during which such use continued. 1957, c. 94, s. 3.

Use of term  
"hospital"

**4.—**(1) No person shall use the term "hospital" in connection with a house unless such use is duly authorized.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1957, c. 94, s. 4.

Approval

**5.—**(1) No licence shall be granted unless the house, its location with regard to neighbouring premises and its proposed facilities and equipment are approved by an inspector as suitable for the purposes indicated in the application and the Commission is satisfied as to the character and fitness of the applicant. 1957, c. 94, s. 5.

Commission  
to approve  
applications  
for incorpo-  
ration of  
private  
hospitals  
R.S.O. 1960,  
c. 71

(2) No application under *The Corporations Act* to incorporate a corporation having as its object the operation of a private hospital shall be proceeded with until it has first received the approval of the Commission. 1959, c. 74, s. 1.

Directors  
and officers

(3) No licence shall be granted to a corporation unless the Commission is satisfied as to the character of each director and officer of the corporation and as to his fitness to direct, manage or be associated with the operation of a private hospital. 1960, c. 87, s. 1.

Application  
for licence

**6.—**(1) Every application for a licence to keep a private hospital shall be made in writing to the Commission and shall contain the following particulars:



1. The full name, place of residence, occupation and qualifications of the applicant.
2. A statement of the estate or interest of the applicant in the house in respect of which the licence is desired.
3. A statement of the number of patients proposed to be admitted to the house and to each room or apartment of the house.
4. A description of the situation of the house.
5. A plan of the house on a scale of not less than one-eighth of an inch to the foot showing the intended use of each room.
6. A statement of the sanitary arrangements, ventilation, heating and water supply of the house.
7. A full description of the fire escapes of the house and the facilities provided for use in case of fire.
8. A statement as to the classes of patients proposed to be admitted.
9. A statement as to the proposed charges to be made for each class of patients to be admitted.
10. If it is proposed to offer services in surgery, gynaecology or obstetrics, a statement as to the type of surgery, gynaecology or obstetrics to be performed and as to the facilities and equipment to be provided in the house for these purposes.
11. The number of staff and the qualifications of each member of the staff of the proposed hospital.

(2) Every such application shall be verified by the statutory declaration of the applicant and shall be accompanied by a fee of \$20. 1957, c. 94, s. 6.

7.—(1) Every licence is renewable annually in accordance with the regulations.

Licence,  
renewal

(2) The fee for renewal of a licence is \$10.

Fee

(3) The Commission may refuse to renew the licence of any private hospital if it was operated in a manner that contravened any provision of this Act or the regulations.

Power to  
refuse  
renewal

(4) Where the licensee is a corporation, the Commission may refuse to renew its licence if the Commission is not satisfied as to the character of each director and officer of the corporation and as to his fitness to direct, manage or be associated with the operation of the private hospital. 1960, c. 87, s. 2.

Refusal to  
renew  
licence

## Offence

(5) Where the renewal of a licence has been refused or where a licence has been revoked, the licence shall not be displayed in a manner that may induce a person to believe that it is still in force, and every person who so displays a licence is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. 1957, c. 94, s. 7

Death of  
one of joint  
licensees

8. Where a licence has been issued to two or more persons jointly and any of such persons dies leaving the other or others surviving during the currency of the licence, the licence remains in force and has the same effect as if it had been issued to the survivor or survivors. 1957, c. 94, s. 8.

Transfer  
of licence

9. On the application in writing signed by the licensee and by any person to whom he desires that his licence be transferred, the Commission may, by endorsement on the licence or otherwise in writing, transfer the licence to that person, and thereupon that person becomes the licensee of the private hospital with the same rights and obligations as if the licence had been issued to him in the first instance. 1957, c. 94, s. 9.

Transfer  
of licence  
on death  
of licensee

10.—(1) Where the licensee or the sole surviving licensee dies, the Commission may, by endorsement on the licence or otherwise in writing, transfer the licence to any person nominated by the executors or administrators of the deceased licensee, and the transferee thereupon becomes the licensee of the private hospital with the same rights and obligations as if the licence had been issued to him in the first instance.

Revocation  
under such  
circum-  
stances

(2) If the licence is not transferred under subsection 1 within two months after the death of the licensee or of the sole surviving licensee, the Commission shall revoke the licence. 1957, c. 94, s. 10.

Revocation  
of licence

11.—(1) A licence may at any time be revoked by the Commission,

- (a) if the licensee has made default for two months in paying the annual licence fee;
- (b) if the licensee or superintendent has been convicted of an offence against this Act or of any offence punishable by imprisonment; or
- (c) if, in the opinion of the Commission, the premises of the private hospital are unsanitary or without proper fire protection, or the private hospital is managed or conducted in a manner contrary to the regulations or in such a manner that the revocation of the licence is required in the public interest.

(2) Before a licence is revoked, the Commission shall give <sup>Notice to licensee</sup> notice to the licensee or superintendent of the ground or grounds on which it is proposed to revoke the licence and shall afford to him an opportunity of showing cause why the licence should not be revoked. 1957, c. 94, s. 11.

**12.** Every private hospital has power to carry on its <sup>Powers of private hospitals</sup> undertaking as is authorized by any general or special Act under which it was created, established, incorporated or empowered so to do, but, where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. 1957, c. 94, s. 12.

**13.** The fiscal year of every private hospital shall com- <sup>Fiscal year</sup> mence on the 1st day of January of a year and end on the 31st day of December of the same year. 1957, c. 94, s. 13.

**14.—**(1) Every private hospital shall have at all times a <sup>Resident superintendent</sup> superintendent who may be the licensee himself, if qualified under this section, and shall be either a legally qualified medical practitioner, a registered nurse, or a person whose qualifications are acceptable to the Commission.

(2) No person other than a licensee shall be appointed as the superintendent of a private hospital until his name and <sup>Commission's approval</sup> qualifications have been furnished to the Commission and the Commission has approved of the appointment.

(3) During the temporary absence, illness or incapacity of <sup>Acting superintendent</sup> the superintendent, the licensee may, without giving notice to the Commission, appoint as acting superintendent any other person qualified in accordance with this section, and every person so appointed shall, while he so acts, be deemed for the purpose of this Act to be the superintendent, but he shall not so act, whether under the same or successive appointments, for a longer continuous period than four weeks.

(4) Where at any time a private hospital is used as such <sup>Offence</sup> while it has no duly qualified superintendent, the licensee is guilty of an offence and on summary conviction is liable to a fine of not more than \$25 for every day during which it is so used. 1957, c. 94, s. 14.

**15.—**(1) The licensee of every private hospital shall keep <sup>Register of patients</sup> or cause to be kept a register of patients in which shall be entered,

- (a) the name, age, sex and usual place of residence of each patient, and the date of his admission to the hospital;



- (b) each patient's diagnosis;
- (c) the name of the medical practitioner, if any, attending each patient;
- (d) the date on which each patient leaves the hospital and, if transferred to another hospital, the name of the other hospital or, in the event of the death of a patient in the hospital, the date of his death; and
- (e) such other particulars as are prescribed by the Commission.

Entry of  
particulars

(2) The particulars required by subsection 1 shall be entered in the register as soon as practicable after the occurrence of the act or event to which the entry relates.

Offence

(3) Every person who knowingly makes an untrue entry in a register of patients is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

Idem

(4) Every licensee who fails to make or causes to be made any entry in the register required by subsection 1 to be made therein is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. 1957, c. 94, s. 15.

Structural  
alterations

**16.—**(1) No structural alteration of or addition to any private hospital shall be made until a plan of the proposed alteration or addition has been submitted to and approved by the Commission.

Offence

(2) Where any alteration or addition is made in contravention of subsection 1, the licensee is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1957, c. 94, s. 16.

Inspectors

**17.—**(1) The Minister, on the recommendation of the Commission, may designate one or more officers of the Commission or of the Department to be inspectors for the purposes of this Act and the regulations.

Inspection

(2) Every private hospital and its registers and records shall at all times be open to inspection by an inspector.

Inspector  
may enter  
unlicensed  
premises

(3) Where an inspector believes or suspects that any house is used as a private hospital without being licensed, he may at any time and from time to time by himself enter and inspect such house and every part thereof, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1957, c. 94, s. 17.

Use of  
licensed  
hospitals

**18.—**(1) A private hospital shall not be used for any purpose other than the purposes in respect of which the licence is issued and purposes incidental thereto.

(2) Where a private hospital is used in any manner contrary to subsection 1, the licensee and the superintendent are severally guilty of an offence and on summary conviction are each liable to a fine of not more than \$25 for every day during which it is so used. 1957, c. 94, s. 18.

**19.** Where a private hospital is used at any time for the treatment of a greater number of patients than is permitted by the licence, except in the case of emergency, or where a patient of a class not permitted by the licence is admitted, the licensee and the superintendent are severally guilty of an offence and on summary conviction are each liable to a fine of not more than \$25 for every day during which it is so used or the patient is so admitted. 1957, c. 94, s. 23.

**20.** Every person who contravenes any provision of this Act or the regulations, where a penalty is not otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. 1957, c. 94, s. 19

**21.—(1)** In a prosecution for an offence under this Act, the burden of proving that a person residing in a house and there receiving medical treatment is not a patient within the meaning of this Act is upon the person charged.

(2) In a prosecution for an offence under this Act, the burden of proving that a licence is in force and its terms and that a person apparently having the charge, control or management of a private hospital is not the superintendent thereof within the meaning of this Act is upon the person charged. 1957, c. 94, s. 20.

**22.** Any municipality, with the approval of the Commission, may enter into an annual agreement with the licensee of a private hospital respecting the admission to and treatment in the private hospital of indigent persons and dependants of indigent persons in such municipality, and in such case the liability of the municipality to the private hospital shall be determined according to such agreement, and the Commission may terminate any such agreement at any time by thirty days notice in writing to the parties thereto. 1957, c. 94, s. 21.

**23.—(1)** The superintendent of a private hospital shall be deemed to be the occupier of the house for the purpose of giving notice under *The Public Health Act* of any patient found or suspected to be suffering from any communicable disease. R.S.O. 1960, c. 321

**Idem** (2) The superintendent of a private hospital shall be deemed to be the occupier thereof for the purpose of giving notice or information under *The Vital Statistics Act* of the death of any person or of the birth of any child in the hospital. 1957, c. 94, s. 24.

R.S.O. 1960, c. 419

**Regulations** **24.**—(1) The Lieutenant Governor in Council may make such regulations with respect to private hospitals as are deemed necessary for,

- (a) their construction, establishment, licensing, alteration, safety, equipment, maintenance and repair;
- (b) their classifications, grades and standards;
- (c) their inspection, control, government, management, conduct, operation and use;
- (d) their superintendents, staffs, officers, servants and employees and the powers and duties thereof;
- (e) prescribing the powers and duties of inspectors;
- (f) prescribing or restricting the type and amount of surgery, gynaecology or obstetrics that may be performed in any class of private hospital and the facilities and equipment that shall be provided for such purposes;
- (g) the admission, treatment, care, conduct, discipline and discharge of patients, and for prohibiting the admission of any class of patients;
- (h) the classification of patients and the rates and charges for patients;
- (i) the records, books, accounting systems, audits, reports and returns to be made and kept;
- (j) the establishment and operation of periodic medical audits of the work performed in private hospitals;
- (k) prescribing the matters upon which by-laws must be passed by corporations that operate private hospitals;
- (l) the reports and returns to be submitted to the Commission by private hospitals;
- (m) all matters affecting private hospitals. 1957, c. 94, s. 22 (1); 1959, c. 74, s. 2.

**Idem** (2) On the recommendation of the Commission, the Minister may from time to time declare all or any of the regulations to be in force with respect to all private hospitals or any one or more private hospitals or classes thereof and for such time or times as the Minister deems expedient. 1957, c. 94, s. 22 (2).



## CHAPTER 306

## The Private Investigators Act

## 1. In this Act,

Interpre-  
tation

- (a) "Commissioner" means the Commissioner of Police for Ontario;
- (b) "licence" means a licence under this Act and includes a temporary licence under this Act;
- (c) "private investigator" means a person who investigates and furnishes information;
- (d) "regulations" means the regulations made under this Act;
- (e) "Treasurer" means the Treasurer of Ontario. 1958, c. 81, s. 1.

## 2. Nothing in this Act applies to or affects,

Where Act  
not to apply

- (a) barristers or solicitors in the practice of their profession and their employees;
- (b) persons engaged in the business of furnishing information to subscribers as to the financial rating of persons and the employees of persons so engaged;
- (c) any class of persons exempted under the regulations. 1958, c. 81, s. 2.

3. No person shall engage in the business of a private investigator for hire or reward without a licence so to do. 1958, c. 81, s. 3.

Licences  
to engage  
in business

4. No person shall act as a private investigator as an employee or agent of a person who is engaged in the business of a private investigator without a licence so to do. 1958, c. 81, s. 4.

Licensing of  
employee

5. A statement in a letter, advertisement, card or other document or paper to the effect that a person is engaged in the business of a private investigator or is acting as a private investigator is *prima facie* evidence that he is so engaged or acting, as the case may be. 1958, c. 81, s. 5.

*Prima facie*  
evidence

**Application  
for licence**

**6.**—(1) Every applicant for a licence to engage in the business of a private investigator shall apply for his own licence and the licences of his employees or agents, if any, who are private investigators upon the prescribed form which shall be accompanied by the prescribed fees and a bond in the prescribed amount and form.

**Type of bond**

(2) The bond shall be,

**R.S.O. 1960,  
c. 168**

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security.

**Collateral  
security**

(3) The collateral security shall be negotiable securities of the classes prescribed by the regulations not less in value than the sum secured by the bond and shall be deposited with the Treasurer.

**Further  
information**

(4) The Commissioner may require further information or material to be submitted by an applicant or a licensee and may require verification by affidavit or otherwise of any information or material then or previously submitted. 1958, c. 81, s. 6.

**Powers of  
Commissioner**

**7.** The Commissioner may grant or refuse to grant a licence or any renewal thereof or suspend or revoke any licence where in his opinion such action is in the public interest. 1958, c. 81, s. 7.

**Death of  
licensee**

**8.**—(1) Where a person who is licensed to engage in the business of a private investigator dies, the Commissioner may grant to his executor or administrator a temporary licence.

**Employees**

(2) All licensed employees of a deceased licensee at the time of his death shall be deemed to be licensed as employees of such executor or administrator. 1958, c. 81, s. 8.

**Termination  
and renewal**

**9.**—(1) Subject to subsections 2 and 3, every licence and renewal of licence terminates on the 31st day of March in each year and every person who is licensed to engage in the business of a private investigator shall apply, on the prescribed form, for a renewal of his own licence and the licences of his employees and agents, if any, on or before the 1st day of March in each year giving full particulars of any change in the facts set forth in the latest application form on record and enclosing the prescribed fees for himself and his licensed employees and agents as upon a first application.

(2) The licence of an employee or agent terminates upon his ceasing to be an employee or agent, as the case may be, in which event his licence shall be returned forthwith by his employer to the Commissioner. <sup>Termination of employees' licences</sup>

(3) Every temporary licence terminates in accordance with the regulations. 1958, c. 81, s. 9. <sup>Termination of temporary licence</sup>

**10.**—(1) The Commissioner shall cause all cash, cheques, money orders and postal notes to be deposited with the Treasurer for payment into the Consolidated Revenue Fund. <sup>Fee moneys</sup>

(2) Where an application for a licence or the renewal of a licence is refused or is granted after the 30th day of September in any year, the Commissioner may recommend to the Treasurer that a refund of the fee or a part thereof be made and the Treasurer may make such refund. 1958, c. 81, s. 10. <sup>Refund</sup>

**11.** Immediately upon the receipt of a licence, the licensee shall cause it to be displayed in a conspicuous place in his office, and for this purpose duplicate licences may be issued where the licensee engages in the business of a private investigator in more than one place. 1958, c. 81, s. 11. <sup>Licence to be displayed</sup>

**12.** Where a person who is licensed to engage in the business of a private investigator changes his place of business, he shall, within the twenty-four hours immediately following the change, give written notice by registered mail of the change to the Commissioner. 1958, c. 81, s. 12. <sup>Change of place of business</sup>

**13.**—(1) No person shall have in his possession or display any badge, shield, card or other object purporting to indicate that he is licensed under this Act except the prescribed identification card issued to him under this Act. <sup>Use of badges, etc., prohibited</sup>

(2) Every licensee shall, while investigating, carry on his person the prescribed identification card issued to him under this Act and shall produce it for the inspection of any person who requests the same. <sup>Identification card to be carried</sup>

(3) No person other than the licensee to whom it has been issued shall have in his possession any prescribed identification card. 1958, c. 81, s. 13. <sup>Unauthorized use</sup>

**14.** No licensee shall at any time, whether by agreement with a municipality or board of police commissioners or otherwise, act as a member of a police force or perform the duties of a constable or other police officer. 1958, c. 81, s. 14. <sup>Acting as police officer prohibited</sup>



Expression  
"private  
detective"  
prohibited

**15.** No person engaged in any business or employment shall use the expression "private detective" in connection with such business or employment or hold himself out in any manner as a private detective. 1958, c. 81, s. 15.

Information  
to be confi-  
dential

**16.** No person who is or has been a licensee shall divulge to anyone, except as is legally authorized or required, any information acquired by him as a private investigator. 1958, c. 81, s. 16.

Licensees  
not to be  
collectors

**17.** No licensee shall act as a collector of accounts, or undertake, or hold himself out, or advertise as undertaking to collect accounts for any person either with or without remuneration. 1958, c. 81, s. 17.

Offence

**18.** Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 for a first offence and not more than \$2,000 for a subsequent offence and in either case in addition thereto to imprisonment for a term of not more than one year. 1958, c. 81, s. 18.

Regulations

**19.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the classes of persons who shall be exempt from this Act or from any provision thereof;
  - (b) prescribing forms and providing for their use;
  - (c) prescribing the form of licences;
  - (d) prescribing licence fees;
  - (e) prescribing the term and other conditions of temporary licences;
  - (f) prescribing the amount and form of bonds to be furnished under this Act, the classes of securities that are acceptable as collateral security, the conditions of forfeiture of bonds, the conditions upon which bonds may be cancelled, the period that bonds shall subsist, and respecting all matters subsequent to forfeiture;
  - (g) prescribing the form and contents of identification cards for licensees and providing for the issue thereof;
  - (h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1958, c. 81, s. 19; 1959, c. 75, s. 1.
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## CHAPTER 307

## The Private Sanitaria Act

## 1. In this Act,

Interpre-  
tation

- (a) "board" means the board of visitors;
- (b) "habitué" means an alcoholic or drug habitué;
- (c) "inspector" means an inspector appointed under *The Mental Hospitals Act*; R.S.O. 1960,  
c. 236
- (d) "intoxicating liquor" has the same meaning as "liquor" in *The Liquor Control Act*; R.S.O. 1960,  
c. 217
- (e) "medical practitioner" means a legally qualified medical practitioner;
- (f) "Minister" means the member of the Executive Council charged for the time being with the administration of this Act;
- (g) "proprietor" means a person or corporation to whom a licence is granted under this Act, or a person or corporation keeping, owning or having any interest or exercising any duties or powers of a proprietor in a sanitarium;
- (h) "sanitarium" means an institution for the care and treatment of mental and nervous illnesses that is licensed under this Act. R.S.O. 1950, c. 290, s. 1;  
1953, c. 83, s. 1, *amended*.

2.—(1) When the proprietor of a sanitarium desires to obtain a licence for it under this Act, he shall give notice thereof to the Minister. Notice of  
application  
for licence R.S.O. 1950, c. 290, s. 2.

(2) The notice shall contain the full name, place of residence and occupation of the proprietor, unless the proprietor is a corporation, when the name and chief place of business of the corporation shall be given, and a true and full description of the proprietor's estate or interest in the premises sought to be licensed, and, if the proprietor does not propose to reside himself in the licensed premises, the notice shall contain the full name, place of residence and occupation of the superintendent who is to reside therein. Contents of  
notice R.S.O. 1950, c. 290, s. 3.

Plan of the  
house, etc.

(3) The notice shall be accompanied by a plan of the premises, drawn upon a scale of not less than one-eighth of an inch to a foot, with a statement showing,

- (a) the situation thereof;
- (b) the length, breadth and height of, and a reference by a figure or letter to every room and apartment therein;
- (c) the quantity of land not covered by any building and appropriated to the exclusive use, exercise and recreation of the patients proposed to be received;
- (d) the number of patients proposed to be received into the institution, and whether the licence applied for is for the reception of male or female patients, or of both, and, if for the reception of both, the number of each sex proposed to be received and the means by which the one sex will be kept separate and apart from the other;
- (e) the sanitary arrangements, ventilation, heating and water supply, and the fire escapes and the facilities provided for use in case of fire and the means for preventing fires. R.S.O. 1950, c. 290, s. 4.

Time for  
sending  
notice to  
inspector

(4) The notice, with the plan and statement shall be sent to the inspector at least two weeks before the reception of patients.

Inspector  
to report

(5) The inspector shall thereupon visit the proposed sanitarium and inspect it, and report thereon to the Lieutenant Governor in Council. R.S.O. 1950, c. 290, s. 5.

Licence to  
proprietors

(6) If the inspector reports that the premises are ready and fit for occupation as a sanitarium, the Lieutenant Governor in Council may issue a licence to the proprietor to keep and maintain the same for the purposes of a sanitarium and receive therein the number of patients named in the inspector's report; and such licence continues in force until revoked by the Lieutenant Governor in Council on the report of the inspector. R.S.O. 1950, c. 290, s. 6.

Conditions,  
etc., of  
licence

(7) Any such licence may be issued subject to such conditions, qualifications or restrictions as the Lieutenant Governor in Council deems advisable.

Further  
restrictions  
on licensees

(8) Without limiting the generality of subsection 7, any such licence may be issued subject to restrictions respecting the class or sex of patients who may be admitted and the type of treatment that may be given to patients. R.S.O. 1950, c. 290, s. 7.



(9) No such licence shall be issued unless the proprietor gives security to Her Majesty in the sum of \$1,000 under the usual conditions for his good behaviour during the time the licence continues in force. R.S.O. 1950, c. 290, s. 8. <sup>Security by licensee</sup>

3.—(1) Every sanitarium shall be under the supervision and inspection of a board of visitors composed of the judge or, in the case of his absence or disqualification, a junior judge of the county or district court, the clerk of the peace and the sheriff of the county or district in which the sanitarium is situate, together with two medical practitioners appointed by the Lieutenant Governor in Council who shall hold office for three years unless sooner removed by him. <sup>Board of visitors</sup>

(2) The judge is the chairman and the clerk of the peace is the secretary of the board. <sup>Chairman and secretary</sup>

(3) The members of the board shall be paid by the proprietor such allowance for their services as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 290, s. 9. <sup>Allowance to members</sup>

(4) No member of the board shall be pecuniarily interested in any sanitarium, either directly or indirectly, and any member who after his appointment becomes interested in any sanitarium either as proprietor or part owner, or by the sale of merchandise to such a sanitarium or in any other way, thereupon becomes disqualified from acting and shall not thereafter act in such capacity. <sup>Visitors not to have a pecuniary interest in any sanitarium</sup>

(5) If a member of the board is or becomes so disqualified, the Lieutenant Governor in Council may appoint some one to act in his stead. R.S.O. 1950, c. 290, s. 10. <sup>Appointment in case of disqualification</sup>

(6) Every member of the board shall, before acting, take and subscribe the following oath: <sup>Oath of visitors</sup>

"I, A.B., do swear that I will discreetly, impartially and faithfully execute all the trusts and powers committed to me by virtue of *The Private Sanitaria Act*, and that I will keep secret all such matters as come to my knowledge in the execution of my office, except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of the duty imposed upon me by the said Act. So help me God."

(7) The oath shall be filed in the office of the clerk of the peace. R.S.O. 1950, c. 290, s. 11. <sup>Oath to be filed</sup>

(8) The secretary shall summon the board to meet for the purpose of executing its duties under this Act. R.S.O. 1950, c. 290, s. 12. <sup>Meeting of board</sup>

(9) Every such summons and meeting shall be made and held as privately as possible and in such manner that no proprietor, superintendent or person interested in or employed <sup>Meetings to be private</sup>

about or connected with the sanitarium to be visited shall know of the intended visitation. R.S.O. 1950, c. 290, s. 13.

Assistant  
secretary

(10) If the secretary at any time desires to employ an assistant in the execution of his duties, he shall certify such desire and the name of the proposed assistant to the chairman of the board, and, if such assistant is approved of, the chairman shall administer the following oath to such assistant:

"I, A.B., do swear that I will faithfully keep secret all such matters and things as come to my knowledge in consequence of my employment as assistant to the secretary of the Board of Visitors, appointed for the county or district of.....  
by virtue of *The Private Sanitaria Act*, unless required to divulge the same by legal authority. So help me God."

At whose  
cost

(11) The secretary may thereafter, at his own cost, employ such assistant. R.S.O. 1950, c. 290, s. 14.

Restrictions  
upon physi-  
cians who  
are visitors

4.—(1) No medical practitioner who is a member of the board shall sign a certificate for the admission of a patient into a sanitarium or shall professionally attend upon a patient therein unless he is directed to visit the patient by the person upon whose order the patient was received into the sanitarium, or by the Minister or by one of the judges of the Supreme Court, or by some person appointed by one of such judges for that purpose.

Offence

(2) For every contravention of subsection 1, the medical practitioner is guilty of an offence and, on summary conviction, is liable to a fine of \$200. R.S.O. 1950, c. 290, s. 15.

Removal of  
superin-  
tendent

5. A proprietor may remove the superintendent named in the notice, and may at any time appoint another superintendent upon giving to the board a notice containing the full name, place of residence and occupation of the new superintendent. R.S.O. 1950, c. 290, s. 16.

Fee

6.—(1) For every licence there shall be paid to the clerk of the peace for the county or district in which the sanitarium is located, for every patient proposed to be received therein, the sum of \$5, and, if the total amount so payable does not amount to \$200, so much more as together therewith will make up the sum of \$200, and no such licence shall be delivered until the sum payable therefor has been paid. R.S.O. 1950, c. 290, s. 17.

Application  
of fees

(2) All moneys received for licences under this Act shall be applied towards the payment of the allowance to the secretary for his services and the discharge of the costs, charges and expenses incurred by or under the authority of the board in the execution of or by virtue of this Act. R.S.O. 1950, c. 290, s. 18.

7. The clerk of the peace shall keep an account of all money received and paid by him under this Act, and such accounts shall be made up to the last day of December in each year inclusively, and shall be signed by at least two of the members of the board and forwarded to the Minister. R.S.O. 1950, c. 290, s. 19.

Clerk of the peace to keep account of moneys

8. No one licence shall include or extend to more than one sanitarium; but if there is any place or building detached from the sanitarium, but not separated from it by ground belonging to any other person, and if such place or building is specified, delineated and described in the prescribed notice, plan and statement in the same manner in all particulars as if it had formed part of the sanitarium, then such detached place or building, if the Lieutenant Governor in Council thinks fit, may be included in the licence for the sanitarium, and if so included shall be considered part of the sanitarium for the purposes of this Act. R.S.O. 1950, c. 290, s. 20.

To what premises licence may extend

9. No addition or alteration shall be made to, in or about a sanitarium or its appurtenances, unless previous notice in writing of the proposed addition or alteration, accompanied with a plan thereof, drawn upon the prescribed scale and accompanied by the prescribed statement, has been given to the inspector by the proprietor, nor unless the approval of the Lieutenant Governor in Council has been previously obtained. R.S.O. 1950, c. 290, s. 21.

Alterations in sanitarium

10. If a proprietor becomes incapable of keeping the sanitarium or dies before the expiration of the licence, the Lieutenant Governor in Council may authorize the transfer of the licence, for the term then unexpired, to the person who at the time of such incapacity or death was the superintendent of the sanitarium or had the care of the patients therein, or to such other person as the Lieutenant Governor in Council approves, and in the meantime the licence remains in force and has the same effect as if granted to the superintendent. R.S.O. 1950, c. 290, s. 22.

When licence transferable

11. If a licence has been granted to two or more persons and one or more of such persons dies leaving the other or others surviving, the licence remains in force and has the same effect as if granted to the survivor or survivors. R.S.O. 1950, c. 290, s. 23.

Survivorship

12.—(1) If a sanitarium is razed or becomes unfit for the accommodation of patients, or if the proprietor desires to transfer the patients to another building, the Lieutenant Governor in Council may grant him a licence to keep such

Removal to other premises



other building for the reception of patients for such time as the Lieutenant Governor in Council thinks fit, but the like notice of such intended change and the like plans and statements of and as to such other building shall be given as are required when application is first made for a licence for a sanitarium, and shall be accompanied by a statement in writing of the cause of the change.

Fee for  
licence for  
transfer

(2) A fee of \$25 is payable by the licensee to the clerk of the peace upon the issue of the licence.

Notice of  
intended  
removal

(3) Except where the change is occasioned by fire or tempest, seven clear days previous notice of the intended removal shall be sent by the proprietor to the person who signed the requisition for the reception of each patient or the person by whom the last payment on account of each patient was made. R.S.O. 1950, c. 290, s. 24.

Admission  
on requisition  
and  
certificates

**13.**—(1) The superintendent of a sanitarium may admit to and, subject to section 37, may detain in it any person who is mentally ill or mentally defective upon a requisition (Form 1) and the certificates (Form 2) of two medical practitioners.

Contents of  
certificate

(2) Every certificate shall state and show clearly that the medical practitioner signing it personally examined the patient separately from any other medical practitioner and, after due inquiry into all the necessary facts relating to the case of the patient, found him to be mentally ill or mentally defective and a proper person to be confined in a sanitarium.

Idem

(3) Each medical practitioner shall also in such certificate state the facts upon which he has formed his opinion of the mental illness or mental deficiency, distinguishing the facts observed by him from the facts communicated to him by others, and every such certificate shall be signed in the presence of one subscribing witness who shall not be a physician issuing a certificate, and shall show the date upon which the examination was made.

Limitation  
on admission

(4) No person shall be admitted as a patient under this section except within fifteen days of the examination referred to in any certificate. 1953, c. 83, s. 2, *part*.

Persons  
resident  
outside  
Ontario

**14.** The superintendent of a sanitarium may admit to and, subject to section 37, may detain in it any person resident outside Ontario who is certified to be mentally ill or mentally defective by two medical practitioners of the place outside Ontario in which such person resides, if certificates are made *mutatis mutandis* according to Form 2, but any person so admitted and detained in a sanitarium shall, within fifteen

days of admission, be examined by one medical practitioner of Ontario who shall certify according to Form 2. 1953, c. 83, s. 2, *part*.

**15.** The requisition and certificates referred to in section 13 or the certificates referred to in section 14 are sufficient authority, Effect of requisition and certificates

- (a) to any person to convey the patient to the sanitarium; or
- (b) to the superintendent thereof to receive him and, subject to section 37, to detain him therein as long as he continues to be mentally ill or mentally defective; or
- (c) to the superintendent of any institution under *The Mental Hospitals Act* to which the patient may afterwards be transferred by the order of the inspector, to receive such patient in such institution and to detain him therein as long as he continues to be mentally ill or mentally defective. 1953, c. 83, s. 2, *part*. R.S.O. 1960, c. 236

**16.** Subject to the provisions and exceptions hereinafter contained, no person shall receive to board and lodge in any premises not licensed under this Act or take the charge or care of more than two mentally ill or mentally defective persons at the same time. R.S.O. 1950, c. 290, s. 28; 1953, c. 83, s. 3. Restrictions upon unlicensed premises

**17.** Every person who receives to board or lodge in premises not licensed under this Act, or takes the care or charge of a person mentally ill or mentally defective, shall within one month next after receiving such person into his premises or under his care notify the inspector thereof. R.S.O. 1950, c. 290, s. 29; 1953, c. 83, s. 4. Duty to notify inspector

**18.—(1)** No medical practitioner who, or whose father, brother, son or partner, is wholly or partly the proprietor of or a regular professional attendant in a sanitarium shall sign any certificate for the reception therein of a patient, and no medical practitioner who, or whose father, brother, son or partner, signs the prescribed requisition for the reception of a patient shall sign any certificate for the reception of the same patient. R.S.O. 1950, c. 290, s. 30. When physician not to certify

**(2)** No medical practitioner whose partner, brother, father or son issues a certificate for the reception of a patient into a sanitarium shall sign a certificate for the reception of the same patient. 1953, c. 83, s. 5. idem

Penalty for  
giving false  
certificate  
maliciously

**19.**—(1) Any medical practitioner who maliciously or corruptly signs a false certificate for the purpose of procuring the confinement of any person who is not mentally ill or mentally defective in a sanitarium shall, upon judgment being given against him in an action for damages on account of such malicious or corrupt act, *ipso facto* be incapacitated from practising in Ontario for the period of five years thereafter. R.S.O. 1950, c. 290, s. 31 (1); 1953, c. 83, s. 6.

Removal  
from  
register

(2) The name of such medical practitioner shall, upon production of a certified copy of the judgment to the registrar of the College of Physicians and Surgeons of Ontario, be removed from the register. R.S.O. 1950, c. 290, s. 31 (2).

Admission  
of voluntary  
patient

**20.**—(1) The superintendent of a sanitarium may receive and detain therein as a patient any person suitable for care and treatment who voluntarily makes written application (Form 3) accompanied by the certificate in Form 3 of one medical practitioner certifying that the person is suffering from a form of mental illness that requires treatment in a sanitarium, and that he is capable of appreciating the fact that he is to be admitted as a voluntary patient. 1953, c. 83, s. 7.

Discharge

(2) No person so admitted shall be detained more than three days after he has given notice in writing to the superintendent of his desire to leave the sanitarium.

Notice of  
admission  
to board

(3) The superintendent shall give immediate notice of the reception of such person to the secretary of the board, stating all the particulars of the case, and one or more members of the board or the secretary shall forthwith visit the patient in order to verify the fact of his having been admitted voluntarily, and all the facts in connection with the case shall be forthwith recorded in the visitors' book by the person making the inquiry. R.S.O. 1950, c. 290, s. 32 (2, 3).

Register of  
patients

**21.**—(1) Every proprietor or superintendent who receives a patient into a sanitarium shall, within two days after his reception, make an entry with respect to him in a book to be kept for that purpose, called the "Register of Patients", according to the form and containing the particulars mentioned in Form 4, so far as he can ascertain the same, and, when a patient is discharged or dies, an entry of the fact shall be made in the appropriate column.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1950, c. 290, s. 33.



**22.** The form of the mental disorder, if any, of every patient received into a sanitarium shall, within seven days after his reception, be entered in the clinical record by the medical attendant, and every medical attendant who omits to make such an entry is guilty of an offence and on summary conviction is liable to a fine of not more than \$10. R.S.O. 1950, c. 290, s. 34. Record of mental disorder

**23.** The proprietor or superintendent of a sanitarium shall, after two clear days and before the expiration of seven clear days from the day on which a patient has been received into the sanitarium, transmit to the secretary of the board a copy of the requisition and medical certificates or certificate on which the patient was received, and also a notice and statement according to Form 5. R.S.O. 1950, c. 290, s. 35. Copy of order for visitors

**24.—(1)** Where a patient has escaped from a sanitarium, the proprietor or superintendent shall, within two clear days next after the escape, transmit written notice thereof to the inspector and to the secretary of the board. Escapes

(2) The notice shall state the full name of the patient, and his then state of mind, and the circumstances of the escape. Contents of notice

(3) The patient may be retaken at any time within one month after his escape and brought back to and detained in the sanitarium. Capture

(4) If the patient is brought back, the proprietor or superintendent shall within two clear days thereafter transmit written notice thereof to the inspector and to the secretary of the board. Notice of capture

(5) The notice shall state when the patient was so brought back and under what circumstances, and whether with or without a fresh requisition and certificate. Contents

(6) Every proprietor or superintendent who omits to transmit such a notice, whether of escape or of return, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1950, c. 290, s. 36. Offence

**25.** Where a patient is removed or discharged from a sanitarium or dies therein, the proprietor or superintendent shall, within two clear days next after the removal, discharge or death, make an entry thereof in a book to be kept for that purpose (Form 6) and stating the particulars in Form 6, and shall also within the same period transmit written notice thereof (Form 7) and also of the cause of the removal, discharge or death, if known, to the inspector and to the secretary of the board. R.S.O. 1950, c. 290, s. 37. Entry of removal, discharge, etc.

Certificate  
required in  
case of death

**26.**—(1) Where a patient dies in a sanitarium, a statement of the cause of death, with the name of any person present at the death, shall be forthwith drawn up and signed by the superintendent of the sanitarium, and a copy thereof duly certified by the proprietor or superintendent shall, within forty-eight hours after the death of the patient, be transmitted by him to the nearest coroner and to the inspector and to the secretary of the board, and also to the person who signed the requisition for the patient's admission or, if he is dead or absent from Ontario, to the person who made the last payment on account of the patient.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 290, s. 38.

Furnishing  
copy of  
certificates  
and  
requisition

**27.** Where a person discharged from a sanitarium considers himself to have been unjustly detained therein, the secretary of the board shall, at his request, furnish to him or to his solicitor, without fee or reward, a copy of the certificates and requisition upon which he was admitted or detained. R.S.O. 1950, c. 290, s. 39.

Medical staff

**28.**—(1) In every sanitarium licensed for one hundred patients or more, there shall be a resident medical practitioner as superintendent or medical attendant thereof and one medical practitioner for each thirty patients over the first thirty in residence, and in every such sanitarium licensed for fewer than one hundred and more than fifty patients there shall be one medical practitioner for each thirty patients in residence, and every sanitarium licensed for fewer than fifty patients, if it is not kept by or has not a resident medical practitioner, shall be visited by one twice in every week, but the board or the inspector may direct that such last-mentioned sanitarium be visited by a medical practitioner at any other time or times not oftener than once in every day.

Where fewer  
than 11  
patients

(2) Where a sanitarium is licensed to receive fewer than eleven patients, any two members of the board may, by writing under their hands, permit the sanitarium to be visited by a medical practitioner at intervals greater than twice every week as they appoint, but not at a greater interval than once in every two weeks. R.S.O. 1950, c. 290, s. 40.

The Clinical  
Record

**29.**—(1) There shall be kept in every sanitarium a record called "The Clinical Record" in which the medical practitioner keeping or residing in or visiting the sanitarium shall make or cause to be made entries at least every week of the mental state and bodily condition of each patient and a correct statement of the treatment pursued.

(2) The inspector or the board may, whenever he or they see fit, by an order in writing, require the superintendent to transmit to him or them a correct copy of the entries or entry in the clinical record relative to the case of any patient who is or has been detained in the sanitarium.

Duty to  
furnish  
copies

(3) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$40. R.S.O. 1950, c. 290, s. 41.

Offence

**30.** There shall also be kept and observed such forms and regulations as the inspector from time to time directs for the further purpose of recording clinical particulars regarding patients' mental and physical condition and reporting particulars regarding the estates of patients. R.S.O. 1950, c. 290, s. 42.

Forms and  
regulations

**31.** Every sanitarium shall be visited and inspected,

Inspection  
and visi-  
tation

- (a) by at least two of the members of the board, one of whom is a medical practitioner, at least four times in every year; and
- (b) at least once in every year by the inspector who shall prepare and forward a full report of his visit of inspection to the Minister. R.S.O. 1950, c. 290, s. 43.

**32.**—(1) The visitors and inspector, when visiting a sanitarium, shall inspect every part of it and every house, out-house, place and building communicating with it or detached from it, but not separated by ground belonging to another person, and every part of the ground and appurtenances held, used or occupied therewith, and shall see every patient then detained therein, and shall inquire whether any patient is under restraint and why, and shall inspect the order and certificates or certificate for the reception and detention of every patient who has been received into the sanitarium since the last visit, and shall enter in the visitors' book a minute as to,

Duties of  
visitors and  
inspector in  
making visits

- (a) the then condition of the sanitarium, its furniture, furnishings and surroundings;
- (b) the appearance of the patients, particularly noting if there are any marks of violence;
- (c) the condition of the beds and bedding;
- (d) whether the dietary is suitable and the food service satisfactory;
- (e) whether the staff is sufficient;



- (f) the number of patients under restraint or in seclusion with the reasons stated therefor;
- (g) any irregularity in the order or certificate;
- (h) whether the previous suggestions, if any, of the inspector or visitors have been attended to; and
- (i) any matter as to which they or he deem it proper to make observations.

Duties of proprietor or superintendent

(2) The proprietor or superintendent shall show to the visitors or inspector every part of the sanitarium and every person detained therein as a patient.

Inquiries to be made by the visitors

- (3) The visitors and inspector shall inquire,
  - (a) whether divine service is held therein, for what number of patients, and the effect thereof;
  - (b) what occupations or amusements are provided for the patients, and the result thereof;
  - (c) whether there has been adopted any system of non-restraint, and if so the result thereof;
  - (d) as to the classification of patients;
  - (e) whether there is any patient who should be discharged;
  - (f) whether the building, its furniture and furnishings are suitable;
  - (g) whether the nurses engaged in caring for the patients are properly trained for the work in which they are engaged, and how many trained graduate nurses are employed; and
  - (h) as to any matter as to which it is proper to inquire in order to ascertain whether the sanitarium is properly conducted.

What information to be laid before the visitors

(4) Upon every visit, there shall be laid before the visitors or the inspector by the proprietor or superintendent,

- (a) a list of all the patients then in the sanitarium, distinguishing males from females, and specifying such as are deemed curable;
- (b) the books and records required to be kept by the proprietor or superintendent and by a medical attendant;
- (c) all requisitions and certificates relating to patients admitted since the last visit;

- (d) the licence then in force;
- (e) all such requisitions, certificates, documents and papers relating to any of the patients at any time received into the sanitarium as the visitors or inspector from time to time require to be produced. R.S.O. 1950, c. 290, s. 44.

**33.** There shall be hung up in some conspicuous part of a sanitarium a copy of the plan sent to the inspector on applying for the licence, and there shall be kept in every such sanitarium a copy of this Act, bound in a book called "The Visitors' Book". R.S.O. 1950, c. 290, s. 45.

**34.—(1)** The proprietor or superintendent of a sanitarium shall, within three days after every visit by the visitors, transmit to the inspector and the secretary of the board a true copy of the entries made by them in The Visitors' Book.

(2) The proprietor or superintendent of a sanitarium shall, on the last day of each month, report to the inspector the name of each patient admitted during that month, and transmit copies of the certificates and papers upon which each such patient was admitted, and shall at any and all times furnish to the inspector such other reports and information relative to any patient as are required by him.

(3) Every person who contravenes any of the provisions of subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$40. R.S.O. 1950, c. 290, s. 46.

**35.** The inspector or any two or more members of the board may visit and inspect a sanitarium in their jurisdiction at any hour of the day or night. R.S.O. 1950, c. 290, s. 47.

**36.** The Lieutenant Governor in Council may appoint one or more persons a commissioner or commissioners to conduct an inquiry into the operation of this Act, the operation, management and affairs, financial or otherwise, of any sanitarium, any matter concerning the committal, treatment or detention of any person to or in any sanitarium, any charge or complaint that any person has contravened any provision of this Act or the regulations, or has made any false statement in any return, statement, notice, certificate or other form required to be made or kept by this Act or the regulations, and any other matter relating to the administration of this Act, and such commissioner or commissioners have the same power to enforce the attendance of witnesses, and to compel them to give evidence and produce documents and things, as is vested in any court in civil cases. R.S.O. 1950, c. 290, s. 48.

Discharge of patients

**37.**—(1) Subject to subsection 3, where the person who signed the requisition on which a patient was received into a sanitarium, by writing under his hand, directs the patient to be removed or discharged, the patient shall forthwith be removed or discharged accordingly.

Disability of person who signed the requisition for admission

(2) Subject to subsection 3, if the person who signed the requisition is incapable of giving an order for the discharge or removal of the patient or, if he is absent from Ontario or is dead, the husband or wife of the patient or, if there is no husband or wife, the father of the patient or, if there is no father, the mother of the patient or, if there is no mother, then any one of the nearest of kin for the time being of the patient, or the person who made the last payment on account of the patient, may, by writing under his or her hand, give such direction for the discharge or removal of the patient and thereupon the patient shall forthwith be discharged or removed accordingly. R.S.O. 1950, c. 290, s. 49 (1, 2).

What to be done if the physician in charge objects

(3) No patient shall be discharged or removed if the superintendent or attending medical practitioner, by writing under his hand, certifies that in his opinion the patient is mentally ill or mentally defective, together with the grounds on which such opinion is founded, unless the inspector after such certificate has been produced to him, gives his consent in writing to the discharge or removal of the patient. R.S.O. 1950, c. 290, s. 49 (3); 1953, c. 83, s. 8.

Transfer to another sanitarium or other institution  
R.S.O. 1960, c. 236

**38.** Nothing in this Act prevents a patient from being transferred from one sanitarium to another or to an institution under *The Mental Hospitals Act*, but in such case the patient shall, for the purpose of such removal, be placed under the control of an attendant belonging to the sanitarium to or from which he is about to be removed, and shall remain under such control until the removal has been effected. R.S.O. 1950, c. 290, s. 50.

Discharge of patients by order of inspector or visitors

**39.**—(1) The inspector or any two or more members of the board, one of whom is a medical practitioner, may make special visits to any patient on such days and at such hours as they think fit, and if after two distinct and separate visits made by the same visitors or inspector it appears that the patient is detained without sufficient cause, such visitors or the inspector may order his discharge and he shall be discharged accordingly.

Prerequisites

(2) Every such order shall be signed by such visitors or the inspector, and the discharge of a patient shall not be ordered until after a conference with the superintendent or an attending medical practitioner respecting the fitness of the patient to be discharged.



(3) If the visitors or inspector, after such conference, discharge a patient and the superintendent or medical practitioner has furnished them with a statement in writing containing his reasons against the discharge, they or he shall forthwith transmit such statement to the secretary of the board who shall enter and register it in a book to be kept for that purpose.

Objections of  
physician in  
charge to be  
recorded

(4) Not less than seven days shall intervene between the first and second of such special visits, and the board or inspector shall, seven days before the second of such visits, give notice thereof, either by mail or by an entry in the visitors' book, to the proprietor or superintendent of the sanitarium, and the proprietor or superintendent shall forthwith if possible transmit by registered mail a copy of the notice to the person by whose authority the patient was admitted or by whom the last payment on account of the patient was made.

Time  
between  
visits, notice  
of visits

(5) None of the powers of discharge extend to a patient confined under an order or the authority of the Lieutenant Governor or under the order of any court of criminal jurisdiction. R.S.O. 1950, c. 290, s. 51.

What  
patients the  
visitors  
cannot  
discharge

**40.** If a person applies to a member of the board or to the inspector to be informed whether any particular person is detained in a sanitarium, the member or inspector may give a direction so to do to the secretary of the board who shall on the receipt of such direction make search among the returns made to him under this Act, whether the person inquired for is or, within the then last twelve months, has been detained in a sanitarium under the jurisdiction of the board, and if it appears that he is or has been so detained, the secretary shall deliver to the person applying a statement in writing specifying,

Information  
respecting  
individuals  
detained in  
sanitarium

- (a) the name and location of the sanitarium in which the person appears to be or to have been detained;
- (b) the name of its proprietor or superintendent;
- (c) the date of admission of such person; and
- (d) in case of his having been removed or discharged, the date of his removal or discharge. R.S.O. 1950, c. 290, s. 52.

**41.—**(1) Any member of the board or the inspector may at any time give an order in writing under his hand for the admission to any patient detained in a sanitarium of any relation or friend of such patient or of any person whom any relation or friend of the patient desires to be admitted to him.

Visits of  
relatives  
or friends

**Extent** (2) The order may be either for a single admission or for an admission for any limited number of times or for admission generally at all reasonable times.

**Offence** (3) If the proprietor or superintendent refuses admission to or prevents or obstructs the admission to a patient of a person who produces such an order for his admission, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$80. R.S.O. 1950, c. 290, s. 53.

**Entrusting patient to custody of his friends** **42.**—(1) If the superintendent of a sanitarium considers it conducive to the recovery of a patient that he be entrusted for a time to the care of his friends, the superintendent may allow him to return on trial to his friends upon receiving a written undertaking by one or more of them that he or they will keep an oversight over the patient. R.S.O. 1950, c. 290, s. 54 (1).

**Recommittal to sanitarium** (2) If within six months thereafter the patient again becomes mentally ill or mentally defective to such a degree that his confinement in a sanitarium is necessary, the medical superintendent, with the consent of the inspector or one of the visitors, to be endorsed on the warrant, may, by his warrant directed to any person or to any constable or peace officer or to all constables or peace officers, authorize and direct that the patient be apprehended and brought back to the sanitarium, and the warrant so endorsed is authority to any one acting under it to apprehend the person named in it and to bring him back to the sanitarium. R.S.O. 1950, c. 290, s. 54 (2); 1953, c. 83, s. 9.

**Excursions for benefit of health** **43.** The proprietor or superintendent of a sanitarium, with the consent in writing of any two of the visitors, may send or take under proper control any patient to any specified place for any definite time for the benefit of his health, but before such consent is given, the approval in writing of the person who signed the requisition for the admission of the patient, or by whom the last payment on account of the patient was made, shall, if required, be produced to such visitors. R.S.O. 1950, c. 290, s. 55.

**Transfer of patient to hospital** **44.**—(1) The superintendent of a sanitarium may transfer a patient to a public hospital under *The Public Hospitals Act* or to a psychiatric hospital under *The Psychiatric Hospitals Act* for treatment or investigation that cannot be supplied in the sanitarium and may re-admit the patient to the sanitarium when the patient has received the treatment or investigation.

**Powers of superintendent of hospital re custody and control of patient** (2) Where a patient has been transferred to a public hospital or a psychiatric hospital under subsection 1, the superintendent of the hospital to which he has been transferred shall,

in addition to any of the powers conferred upon him by the general or special Act under which the hospital operates, have the powers of a superintendent of a sanitarium under this Act, with respect to the custody and control of the patient. 1953, c. 83, s. 10.

**45.**—(1) The inspector or any two members of the board <sup>Attendance of witnesses</sup> may, by summons under their hands and seals (Form 8), require any person to appear before him or them to testify on oath the truth touching any matters respecting which such inspector or visitors are authorized to inquire.

(2) Every person who does not appear pursuant to such <sup>Offence</sup> a summons, or does not give a reasonable excuse for not appearing, or appears and refuses to be sworn or examined, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

(3) The inspector or the visitors may direct the secretary <sup>Expenses of witnesses</sup> of the board to pay to a person who appears pursuant to the summons all reasonable expenses of his appearance and attendance, and they shall be deemed expenses incurred by the board in the execution of this Act and shall be taken into account and paid accordingly. R.S.O. 1950, c. 290, s. 56.

**46.** Every person who knowingly gives, conveys or supplies <sup>Offence</sup> to a patient detained in a sanitarium any intoxicating liquor or morphia, cocaine or other drugs without the order of the superintendent first obtained in writing is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1950, c. 290, s. 57.

**47.** Every one who knowingly assists directly or indirectly <sup>Idem</sup> any patient detained in a sanitarium to escape therefrom is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 290, s. 58.

**48.** All fines when recovered shall be paid to the clerk of <sup>Disposition of fines</sup> the peace for the county or district in which the offence was committed, to be by him applied and accounted for as herein-before directed with respect to money received for licences. R.S.O. 1950, c. 290, s. 59.

**49.** If an action is brought against a person for anything <sup>Limitation of actions</sup> done or purporting to be done in pursuance of this Act by and on behalf of a person who has been detained in a sanitarium and has been released therefrom, it shall be commenced within twelve months next after his release. R.S.O. 1950, c. 290, s. 60.



Leave to  
prosecute

**50.**—(1) No prosecution for an offence against this Act shall be brought except upon the order in writing of the board or with the consent in writing of the Attorney General.

Before whom

(2) Every such prosecution shall be heard before a magistrate or two justices of the peace. R.S.O. 1950, c. 290, s. 61.

Costs,  
charges and  
expenses

**51.** The costs, charges and expenses incurred by or under any order of the board shall be paid by the clerk of the peace for the county and shall be included by him in the account of receipts and payments hereinbefore directed to be kept by him. R.S.O. 1950, c. 290, s. 62.

Voluntary  
admission  
of habitue

**52.**—(1) If the licence so permits, the superintendent of a sanitarium may receive and detain therein for treatment as an habitue, any person who voluntarily makes written application (Form 9) accompanied by the certificate in Form 9 of one legally qualified medical practitioner certifying that the person is an habitue requiring treatment in a sanitarium and that he is capable of appreciating the fact that he is to be admitted as a voluntary patient.

Discharge

(2) No person so admitted shall be detained more than three days after he has given notice in writing to the superintendent of his desire to leave the sanitarium. 1953, c. 83, s. 11.

Discharge of  
voluntary  
patients

**53.** The medical superintendent has full authority to discharge from the sanitarium when, in his opinion, it is advisable, any person who has been admitted to it by his own voluntary application. R.S.O. 1950, c. 290, s. 65.

Petition  
to judge

**54.**—(1) Any relative, whether by blood or affinity, or, if he has no relative in Ontario, any friend of any alleged habitue may present a petition verified by oath setting forth the particulars mentioned in subsection 2 to the judge of the county or district court of the county or district in which the habitue resides requesting a hearing and examination of the allegations set forth in the petition, and the judge upon receiving the petition shall direct that a copy of it together with a notice setting forth the time and place for the hearing be served upon the alleged habitue at least eight clear days before the day fixed for the hearing.

Contents  
of petition

(2) The petition shall set forth that the alleged habitue is a resident of Ontario, and

(a) is so given over to the use of alcohol or drugs as to render him unable to control himself and incapable of managing his affairs; or

- (b) by reason of the use of alcohol or drugs,
- (i) squanders or mismanages his property,
  - (ii) places his family in danger or distress, or
  - (iii) transacts his business prejudicially to the interest of his family or his creditors; or
- (c) uses alcohol or drugs to such an extent that,
- (i) he is dangerous to himself or to others, or
  - (ii) he incurs the danger of ruining his health or shortening his life. 1953, c. 83, s. 13.

(3) The judge shall attend at the time and place named in the appointment and then and there proceed to inquire into the matters and allegations set forth in the petition, but he may in his discretion adjourn the inquiry from time to time. R.S.O. 1950, c. 290, s. 67. <sup>Hearing the petition</sup>

(4) The judge has the same powers as to summoning witnesses, enforcing their attendance and the production of documents as in proceedings in the county or district court, and each party may retain counsel to conduct the proceedings and to examine witnesses. R.S.O. 1950, c. 290, s. 68. <sup>Idem</sup>

(5) If the judge upon such inquiry is satisfied that the person petitioned against is an habitue and that any of the allegations in the petition are true, he may order him to be admitted to and detained in a sanitarium for a period not exceeding two years. 1953, c. 83, s. 14 (1). <sup>Order for admission</sup>

(6) Before such order is made, the judge shall ascertain that there is a vacancy in the sanitarium, and that satisfactory arrangements have been made with the medical superintendent thereof for the payment of the maintenance of the habitue. R.S.O. 1950, c. 290, s. 69 (2); 1953, c. 83, s. 14 (2). <sup>Arrangements</sup>

(7) The order for the conveyance of the habitue to the sanitarium may be carried out by the sheriff or by any other person to whom it is directed. R.S.O. 1950, c. 290, s. 69 (3); 1953, c. 83, s. 14 (3). <sup>Execution of order</sup>

**55.** If an inmate of a sanitarium, admitted or committed under section 52 or 54, escapes therefrom, any officer or servant of the sanitarium or any other person at the request of the superintendent may, within forty-eight hours after such escape, or within one month thereafter when a warrant has been issued by the superintendent in that behalf, retake such escaped person and return him to the sanitarium where he shall remain under the authority by virtue of which he was detained before the escape. R.S.O. 1950, c. 290, s. 70. <sup>Provision in case any person detained escapes</sup>

FORM 1  
(Section 13 (1))

REQUISITION FOR ADMISSION OF MENTALLY ILL OR  
MENTALLY DEFECTIVE PATIENT

To the Superintendent of.....Sanitarium

I, the undersigned, hereby request you to admit.....  
of.....  
.....  
to.....and to detain him  
.....  
(or her) therein as a patient.

1. Full name of patient.....
2. Sex.....
3. Age.....
4. Relationship, if any to applicant.....
5. Occupation.....
6. Married, single, or widowed.....
7. Religion.....
8. Duration and description of present symptoms, if known.....
9. Whether suicidal or dangerous to others, if known.....
10. Previous hospitalization for mental illness or mental deficiency if known.....

Dated this.....day of....., 19.....

.....  
(Signature of applicant)

.....  
(Address)

1953, c. 83, s. 16 (1), part.



## FORM 2

(Sections 13 (1), 14)

CERTIFICATE OF MEDICAL PRACTITIONER FOR MENTALLY  
ILL OR MENTALLY DEFECTIVE PATIENT

I, the undersigned legally qualified medical practitioner, practising at  
 .....in the County (or District)  
 of.....hereby certify that on the.....  
 day of....., 19....., separately from any other  
 medical practitioner, I personally examined.....  
 of.....  
 (Name of patient)  
 (Municipality)

After due inquiry into all the necessary facts relating to the case of the  
 patient, I do hereby further certify that (s)he is.....  
 (Mentally ill  
 or mentally defective).....and is a proper person to be admitted to and  
 detained in a sanitarium and that I have formed this opinion upon the  
 following grounds, namely:

1. Facts indicating.....  
 (Mental illness or mental deficiency)  
 observed by myself:

2. Other facts, if any, indicating.....  
 (Mental illness or mental deficiency)  
 communicated to me by others:  
 (State from whom the information is received)

Signed this.....day of....., 19.....

Witness:

.....  
 (Signature of medical practitioner)

1953, c. 83, s. 16 (1), part.

## FORM 3

(Section 20 (1))

## VOLUNTARY APPLICATION AND CERTIFICATE

### VOLUNTARY APPLICATION

I, \_\_\_\_\_, of \_\_\_\_\_  
 (Name of applicant) (Residence)  
 request the superintendent of the \_\_\_\_\_ Sanitarium  
 to admit me as a voluntary patient.

I pledge myself to give at least three clear days notice in writing to the superintendent of my desire to leave the sanitarium.

Witness.....

Date.....  
(Signature of applicant)

### CERTIFICATE OF MEDICAL PRACTITIONER

The above named applicant has been examined by me and I am of the opinion that (s)he is suffering from a form of mental illness which requires treatment in a sanitarium, and that (s)he is capable of appreciating the fact that (s)he is to be admitted as a voluntary patient.

.....  
(Signature of medical practitioner)

(Address)

Date.....

1953, c. 83, s. 16 (3), *part.*

FORM 4  
(Section 21 (1))  
REGISTER OF PATIENTS

[illegible]

1953, c. 83, s. 16 (1), *part.*



FORM 5  
(Section 23)

## NOTICE OF ADMISSION

I hereby give you notice, that *A.B.* was received into this sanitarium as a patient, on the ..... day of ..... and I herewith transmit a copy of the requisition and medical certificates (*or* certificate) on which he was received.

Subjoined is a statement with respect to (*his or her*) mental and bodily condition.

(Signed).....  
(Name)

Superintendent (*or* Proprietor) of.....

Dated this ..... day of ....., 19.....

## STATEMENT

I have this day seen and personally examined *A.B.*, the patient named in the above notice, and hereby certify that, with respect to mental state, he (*or she*), ....., and that, with respect to bodily health and condition, he (*or she*).....

(Signed).....  
(Name)

Medical Proprietor (*or* Superintendent,  
*or* Attendant), of.....

Dated this ..... day of ....., 19.....

R.S.O. 1950, c. 290, Form 4.

FORM 6  
(Section 25)  
REGISTER OF DISCHARGES AND DEATHS

Date of Death or Discharge	Date of Last Admission		No. in Register of Patients		Name and Surname in Full		Sex		Discharged			Died	Removed	Assigned Cause of Death	Age at Death	Observations
							M.	F.	Recovered	Relieved	Not Improved					

R.S.O. 1950, c. 290, Form 5.

## FORM 7

(Section 25)

## FORM OF NOTICE OF DISCHARGE OR DEATH

I hereby give you notice that ..... a patient received into this sanitarium on the ..... day of ..... was discharged therefrom, recovered (*or* relieved, *or* not improved) (*or* was removed therefrom) by the authority of ..... (*or* died therein) on the ..... day of .....

(Signed).....

(Name)

Superintendent (*or* Proprietor)

..... of house at.....

Dated this ..... day of ....., 19.....

*In case of death, add—*and I further certify that A.B. was present at the death of the said ....., and that the apparent cause of the death of the said ..... (ascertained by *post mortem* examination, *if so*) was.....

R.S.O. 1950, c. 290, Form 6; 1953, c. 83, s. 16 (2).

## FORM 8

(Section 45 (1))

## FORM OF SUMMONS

We, (*names in full*).....being two of the visitors appointed under *The Private Sanitaria Act*, do hereby summon and require you personally to appear before us at..... in ..... on ..... the ..... day of ....., at the hour of ..... in the ..... noon of the same day, and then and there to be examined, and to testify the truth touching certain matters relating to the execution of the said Act.

Given under our hands and seals, this ..... day of ..... in the year of our Lord, 19.....

R.S.O. 1950, c. 290, Form 7.



FORM 9  
(Section 52)

## VOLUNTARY APPLICATION AND CERTIFICATE FOR HABITUE

## VOLUNTARY APPLICATION BY HABITUE

I, ..... of .....  
(Name of patient) (Residence)  
request the superintendent of the ..... Sanitarium  
to admit me as a voluntary patient suffering from.....  
(Alcoholism or  
drug addiction)

Witness.....

Date.....  
(Signature of applicant)

## CERTIFICATE OF MEDICAL PRACTITIONER FOR HABITUE

## (Voluntary Admission)

The above named applicant has been examined by me and I am of the  
opinion that (s)he is an alcoholic (or drug) habitue requiring treatment in  
a sanitarium and that (s)he is capable of appreciating the fact that (s)he  
is to be admitted as a voluntary patient.

.....  
(Signature of medical practitioner)

.....  
(Address)

Date.....

1953, c. 83, s. 16 (3), part.

















